

# Sacred Heritage of Indigenous Peoples: Who Has the Power?

Using critical discourse analysis to examine the  
existing power relations in the heritage field

Ida Vamio  
Master's Thesis  
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Faculty of Arts  
University of Helsinki  
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Tiivistelmä – Referat – Abstract  <p>The cultural and sacred heritage of indigenous peoples is in a vulnerable position, because of the general threats cultural and religious heritage are facing around the world and because indigenous peoples are often not in a position where their wishes and needs are listened to. In addition to this, indigenous heritage may require a special approach and the following of certain rules, which may clash with existing heritage practices.</p> <p>This thesis researches how the sacred heritage of indigenous peoples is discussed through analyzing documents pertaining to the subject of indigenous sacred heritage and discusses how this may affect the way this heritage is approached in practice. It focuses on the following question: who has the power to manage and care for the indigenous sacred heritage? Additionally, it analyzes how these documents accommodate the rights of indigenous peoples, if they do so at all. It attempts to reveal this by critically examining the discourses found within the texts. The core of the thesis discusses the visible and implicit power relations present in the heritage practices and the wider sector involving the indigenous sacred heritage.</p> <p>The primary source material consists of the Sacred Natural Sites – Guidelines for Protected Area Managers compiled by IUCN, the Australia ICOMOS Charter for Places of Cultural Significance, its practice note The Burra Charter and Indigenous Cultural Heritage Management and the Statement on Indigenous Cultural Heritage, produced by Australia ICOMOS.</p> <p>Critical Discourse Analysis is used as an analysis method and approach. The theoretical framework is based on the ideas presented in the Critical Heritage Studies, more specifically the Politics of Scale, concerning the issue of scale in the heritage field, and how heritage has commonly been understood and managed through the Authorized Heritage Discourse.</p> <p>The thesis shows that the existing power relations clearly preference the national scale of heritage, as well as the heritage practitioners in the management and overall control of indigenous sacred heritage. While the involvement of indigenous peoples is at times encouraged and even demanded, and some discourses present in the text give full control to indigenous peoples, these people ultimately have very little authority in the matters related to their heritage. The rights of indigenous peoples are only somewhat accommodated in the analyzed texts, partially due to the strong influence of the national scale, because the acknowledgment of the rights of indigenous peoples varies by country.</p>		
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# 1 Introduction

## 1.1 Aims and Background

How do we protect the heritage that is most vulnerable to change? Sacred places and traditions can be found all over the world, among a plethora of indigenous groups and within existing religious traditions. Many of these places and traditions are still actively maintained by their respective communities to the best of their ability. Although the significance of the sacred has not dissipated, there are still many threats that the places and traditions of all religious groups and indigenous peoples are facing. While change in itself is not necessarily a bad thing, and not something that should be stopped simply for the sake of preservation, a change that is uninvited and forceful, that comes from outside the communities, should be controlled. Often, however, this control is not in the hands of the communities themselves.

Religious heritage is, by all accounts, something that requires special care and attention due to the sensibilities involved. This is even more true in the case of the heritage of many indigenous peoples who, for the most part of modern history, have not been able to control or even practice their heritage and traditions. They have been forced to change their ways and often even their living places, losing access to their sacred places and their bond with the land.<sup>1</sup> The focus of this Master's thesis will be on this sacred heritage of indigenous peoples and the way it is approached in internationally recognized heritage documents, in an attempt to find out just how indigenous heritage is discussed in the current heritage sector and what this says about the power relations between indigenous peoples and the global and national heritage sectors.

Is all sacred valued the same? It is clear that different groups of people are not on an equal footing when it comes to the management of their religious heritage. The heritage management has for the most part been focused on higher scales, both global and national, with universal but ultimately vague guidelines and policies being applied according to the wishes of the national heritage bodies and other such actors.<sup>2</sup> While there has been a slow shift in the way rights and traditions of indigenous people are recognized, international and national heritage organizations still often forget to hear or listen to the voices of indigenous peoples, preferring to instead speak for them or ignore them completely. The world's different cultural heritage organizations have created charters, guidelines and policies on the management and protection of different types of heritage sites and heritage practices, some of which also discuss topics related to religious heritage, such as sacred

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<sup>1</sup> Thorley and Gunn 2008, 10, 25.

<sup>2</sup> See e.g. Cultural Heritage Policy Documents 2015.

buildings, natural sites, and traditions. Those analyzed in this thesis are the ones applicable to indigenous peoples' sacred heritage.

Today's world is rapidly changing, and some of the biggest threats to heritage are of an environmental nature, directly affecting locations and especially sacred natural sites.<sup>3</sup> Threats caused by human actions are also incredibly common and showcase that the issues of land rights, sacred and its valuation and definition among different scales of influence – from communities to the states and businesses – and the larger theme of indigenous rights is still heavily contested. Examples of such threats can be found all over the world, making the topic ever more relevant even as the rights of the indigenous peoples have become more acknowledged.

Arctic Railway, a railway project proposed to cross from Rovaniemi, Finland to Kirkenes in Norway would cut across the traditional Sami lands, affecting the environment and the traditional livelihoods of the Sami, like reindeer herding and fishing, and potentially destroy their cultural heritage.<sup>4</sup> To make matters worse, the Sami were not consulted on the matter before the government of Finland requested a study on the viability and the effects of the railway, despite the fact that Sami are legally secured a position to negotiate on matters related to the use or leasing of state managed Sami territory. Despite the study finding the project not financially viable and the inclusion of Sami important, the project continued regardless, thanks to a private investor, and the Sami are seemingly sidelined again, despite the law being on their side.<sup>5</sup> The motivations of the railway are economical and political, as the railway would connect the Arctic seaports and the oil-rich area to the rest of Europe and Asia. Interestingly, the official website for the Arctic Corridor project makes no mention of the negative effects the building of the last section of the railway would cause, nor does it mention anything of the opposition that the project faces, or the fact that it would cut across indigenous area and effectively break the human rights' declaration.<sup>6</sup>

In Hawaii, another kind of debate has long been brewing surrounding the construction of the Thirty Meter Telescope, on the sacred mountain of Mauna Kea. It is a traditionally important indigenous site, which still holds sacred and cultural meanings for the indigenous Hawaiians. Whilst the peak already houses 13 smaller telescopes, the building of the 14<sup>th</sup> has caused massive opposition and protests which have managed to delay but not halt the project entirely. The project was approved in court partially due to the fact that the existing telescopes were already seen to have disrupted the

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<sup>3</sup> Protecting the cultural heritage, but from what? *s.a.*; IUCN Sacred Natural Sites: Guidelines for Protected Area Managers 2008, ix.

<sup>4</sup> Lakkala 2019; Näkkäläjärvi 2018; Nilsen 2018.

<sup>5</sup> Gertz 2017; Saamelaiskäräjien nuorisoneuvosto: Jäämeren rata uhkaa tulevaisuuttamme 2019.

<sup>6</sup> Arctic Corridor *s.a.*; Arctic Railway Rovaniemi-Kirkenes *s.a.*.

area in such a way that adding a 14<sup>th</sup> would not change much, despite the fact that the existing telescopes have not been without opposition either. The project was set to continue in July 2019, in a move which many see as a yet another chapter in the disruption of Native Hawaiian rights.<sup>7</sup>

It is not merely the places that are being threatened here. For many indigenous peoples, their traditions and beliefs are linked to the land. Both their religious and cultural heritage stem from the land they have inhabited and the ways of living they have followed. While the same is true to an extent for other religious traditions, the importance of the land to the indigenous peoples and the knowledge of indigenous peoples in sustaining the land have become evident, especially in the discussions pertaining to the climate change and the sustaining of biodiversity. Religious heritage is, after all, not important solely for the meaning it carries among these communities. Physical places with sacred attributes have often, no matter the tradition safeguarding them, rich biodiversity and many of these places are recognized among the oldest protected natural areas on an international level.<sup>8</sup>

## 1.2 Earlier Research

Indigenous peoples have often been at the forefront of controversial fights for their rights against the governments whose lands they inhabit. This has also lead to some research on the topic, although research focusing on the sacred aspect has been less common. The heritage of indigenous peoples as a general topic has garnered some research and even conferences, such as *International Conference on Indigenous Peoples' Rights to Cultural Heritage*, which was held in 2017 at the University of Helsinki in Finland.<sup>9</sup> One of the more recent and influential pieces of research is *World Heritage Sites and Indigenous Peoples' Rights*, a collection of papers conducted under the auspices of the International Work Group for International Affairs (IWGIA). The research, which was collected in 2014, focuses on the actualization of indigenous peoples' rights in the implementation of the World Heritage Convention. Its case studies, conducted with and by indigenous peoples around the world, detail experiences that indigenous peoples have had with the World Heritage Convention regarding their rights, and sites traditionally belonging to them but currently located in the World Heritage Sites, bringing to light issues as well as the potential that the Convention possesses in regard to indigenous rights.<sup>10</sup>

Fergus McKay's *The Case of the Kaliña and Lokono Peoples v. Suriname and the UN Declaration on the Rights of Indigenous Peoples: Convergence, Divergence and Mutual Reinforcement* approaches

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<sup>7</sup> Clery 2019; Kane 2019; Lemonic 2015.

<sup>8</sup> UNESCO Initiative on Religious Heritage s.a..

<sup>9</sup> Indigenous Heritage 2017.

<sup>10</sup> World Heritage Sites and Indigenous Peoples' Rights 2014.

these themes within the field of law. It looks at the legal case between Suriname and the indigenous peoples communities living within its borders, where Suriname was ordered, by the issue of the Inter-American Court on Human Rights, to recognize the rights of all of its indigenous communities as per the directions of UNDRIP. Among these are the rights to their traditional lands and cultural traditions.<sup>11</sup> Similarly Omar Sierra's Master's Thesis: *Protection of the Sacred Lands and Culture of the Wixárika People. Domestic and International Legal Perspective over the Wixárika Mining Case*, which considers the disparity between the framework of indigenous rights and environmental protection set by the Mexican and International Law and the mining project intended to take place in Wirikuta, a sacred site of Wixárika people. The thesis also considers the possibilities of balancing the development and the conservation of natural and cultural heritage, arguing that these do not necessarily exclude each other.<sup>12</sup>

Bas Verschuuren has contributed to a lot of research on sacred natural sites and their specific nature and conservation, and how the local communities and indigenous peoples are regarded in these matters. This includes his PhD thesis: *Creating a Common Ground: The role of Indigenous Peoples' sacred natural sites in conservation practice, management and policy*, which looks at how conservation and conservation practices of sacred natural sites can reach a common ground between indigenous peoples and conservationists. In it, Verschuuren further elaborates on the benefit of including indigenous viewpoints in conservation projects. Additionally, the piece *Believing is Seeing: Integrating cultural and spiritual values in conservation management*, presents the benefit of integrating cultural and spiritual values in the management of SNS and the difficulty and potential solutions to how to reconcile these two approaches.<sup>13</sup>

### 1.3 The Research Questions

Indigenous sacred heritage has so far been approached mainly from the viewpoint of conservation, legal disputes and co-existence of multiple values, indigenous and scientific, often using real life case studies as a source material. Therefore it is beneficial to take a wider look at how the current discussion in the heritage field accommodates the needs of indigenous peoples concerning their sacred heritage. Many of the current global and national heritage documents have existed without revisions for years if not decades, and are still considered influential in their field. Some make an exception to this, such as the Burra Charter, but even then the revising happens at a slow pace. Because heritage documents affect the way heritage is cared for, the way indigenous heritage is written about does then affect the way it is perceived in real life. This is why analyzing the existing

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<sup>11</sup> McKay 2018.

<sup>12</sup> Sierra 2014.

<sup>13</sup> Verschuuren 2017; Verschuuren 2007.

heritage documents can be useful in determining how the more sensitive heritage of indigenous peoples is dealt with in the heritage sector now, and by extension reveal the implicit power structures that control heritage practices.

To accomplish this, I will be researching the following questions.

1. What do the heritage documents say about the current power relations, visible and underlying, present in the heritage sector concerning the sacred heritage of indigenous peoples?
2. How do these documents accommodate the needs and rights of indigenous peoples with regards to their sacred heritage?

Through these questions I aim to find out how indigenous sacred heritage is spoken of in the current heritage sector and discuss what this may say about the wider power relations present in the field of heritage. Ultimately, the question boils down to, who has the power to manage heritage?

To find some answers to these questions I will be analyzing the *Sacred Natural Sites – Guidelines for Protected Area Managers* as well as *The Australia ICOMOS Charter for Places of Cultural Significance*, *The Burra Charter*, the *Practice Note – Burra Charter and Indigenous Cultural Heritage Management* and the *Australia ICOMOS Statement on Indigenous Heritage*. The Guidelines are collected by the International Union for Conservation of Nature (IUCN) and are the first and so far only ones in the series of Best Practice Guidelines which are written on the topic of sacred sites, with special focus on indigenous sacred sites.<sup>14</sup> The Burra Charter is one of the most influential heritage documents within Australia, and considered exemplary enough to have inspired other national heritage documents.<sup>15</sup> The Practice Note on indigenous heritage is one of the Practice Notes that aims to inform about and elaborate on the details in the Charter, and the Australia ICOMOS Statement acts as a set of guiding principles when considering indigenous heritage within Australia.<sup>16</sup>

I will approach the research questions through critical discourse analysis, trying to identify and then analyze the discourses present in the documents. Through them I will examine how indigenous sacred heritage is spoken about, if at all, and the way it reflects the wider power relations in the heritage sector. Although the study is not entirely conclusive, it does offer an insight into the way certain discourses appear in the heritage sector and how this may affect the way indigenous heritage is approached.

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<sup>14</sup> IUCN Sacred Natural Sites: Guidelines for Protected Area Managers 2008.

<sup>15</sup> The Burra Charter *s.a.*.

<sup>16</sup> Charters *s.a.*; Australia ICOMOS Statement on Indigenous Cultural Heritage 2001.



## 2 Material and Methods

### 2.1 Introducing the Source Material

In this thesis I will be analyzing and comparing two different sets of documents, one which is primarily focused on the protection of sacred sites and the sites of indigenous peoples in particular. The second set, consisting of three separate documents, which are somewhat more general, still acknowledge both the concept of spiritual and the heritage of indigenous peoples. Both of the papers have slightly different approaches and focuses but they are involved in the wider discourse concerning heritage management and can be applied to indigenous peoples.

The choice of papers is largely directed by external constraints, as the amount of papers applicable to the topic of this thesis is alarmingly low. In terms of UNESCO, its *Operational Guidelines for the Implementation of the World Heritage Convention* are currently being researched and repurposed in an attempt to be more inclusive of indigenous peoples. UNESCO's Initiative on Religious Heritage on the other hand has yet to produce a general set of guidelines meant to be applicable to heritage of all faiths and spiritual traditions. Many of the existing charters related to indigenous peoples often do not mention their heritage at all, and many if not most of the existing official international cultural heritage documents do not mention indigenous peoples or sacred at all and contain somewhat outdated ideas. Attempting to analyze how these documents would be applicable to indigenous peoples' sacred heritage would be useless as the answer would be that the documents do not apply to indigenous cases at all. On national or state level, general standard-setting documents of heritage are rare to find, since states often rely on the global guidelines, which they then implement in the way they see best. On top of all this, most of the global organizations are so intertwined with each other, that many of the documents can be seen to represent the views of all of them.

The purpose is to analyze the IUCN document from 2008, *Sacred Natural Sites: Guidelines for Protected Area Managers* (hereafter: the Guidelines) and its elaborations.<sup>17</sup> Within the thesis I will be focusing on the introduction chapters, guidelines as well as their elaborations, which without the annexes and references are 73 pages long. While they are aimed at the practitioners and focus on the management of indigenous Sacred Natural Sites, they have been constructed in such a way that they can be applicable in multiple situations and by multiple parties in different sectors.

*The Australia ICOMOS Charter for Places of Cultural Significance, the Burra Charter*, commonly and hereafter known as the Burra Charter, and its newest iteration, is one of the most important heritage

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<sup>17</sup> IUCN Sacred Natural Sites: Guidelines for Protected Area Managers 2008.

documents in Australia.<sup>18</sup> First adopted in 1979 it has been continuously updated to keep up with the changing theories on cultural heritage management. Its latest iteration is from 2013, and this is the version I will be analyzing.<sup>19</sup> While it is a regional document, the ideas it presents have been considered so outstanding that many states have decided to implement parts of it in their own national heritage practices.<sup>20</sup> Due to its novel way of approaching heritage and its continuous amending, it may offer an interesting insight into the rights of indigenous peoples within a nation that has a considerable community of them living within its borders, a nation which for the most part has attempted to work together with the indigenous peoples, rather than against them.

The Burra Charter is accompanied by Practice Notes which are meant to act as practical guidelines for its implementation. These notes have a selection of themes, also touching on indigenous issues.<sup>21</sup> One of them in particular, *Practice Note – The Burra Charter and Indigenous Cultural Heritage Management*, considers the issues that the Burra Charter has in relation to the indigenous heritage management.<sup>22</sup> This is why it will also be included in the analyzing process because it is a clear attempt at taking indigenous needs into consideration although it has not yet been implemented into the Burra Charter itself. The Burra Charter consists of 10 pages and the Practice Note on indigenous matters of 6 pages, when leaving out the references.

The Practice Note is supported by the *Australia ICOMOS Statement on Indigenous Cultural Heritage*, a short, one page document about the special aspects that indigenous heritage may require in terms of management.<sup>23</sup> Although it is not officially linked to either the Burra Charter or its Practice Note, it is mentioned in the text of the latter as a document which “underpins” the Practice Note, making it an essential document to analyze along the aforementioned two. It may offer some further insight into the way indigenous heritage management is spoken about in the context offered by the Australia ICOMOS.

Since the interest of this thesis is the way indigenous peoples and their heritage are taken into account in the official discussion and discourses on cultural heritage and what this says about the power relations present, it focuses solely on the documents constructed on the higher scales of the heritage field. Since these are the scales where most of the decision-making takes place currently, the discourses visible on this scale can have an impact in the way the indigenous heritage is realized

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<sup>18</sup> The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 2013; The Burra Charter *sa.*.

<sup>19</sup> Charters *s.a.*.

<sup>20</sup> The Burra Charter *s.a.*.

<sup>21</sup> Charters *s.a.*.

<sup>22</sup> Practice Note Version 1: 2013. The Burra Charter and Indigenous Cultural Heritage Management. 2013.

<sup>23</sup> Australia ICOMOS Statement on Indigenous Cultural Heritage 2001.

and treated in the real world. This thesis then offers a glimpse into the way official discourses of heritage include indigenous views based on the way the rights, as detailed by UNDRIP, make an appearance. The material does not offer an example of how the rights may or may not be materialized within the context of real life because this thesis will not be addressing any case study examples on the matter. The discussion transpires purely on a theoretical level, on international and to some extent national scale, and cannot therefore offer in-depth sentiments on the more local variations of the issues nor how the discourses actualize on a practical level. Because the sample size is extremely small, it also does not claim to expound the general state of the relations between heritage field and indigenous peoples and their rights, though the lack of documents that can be readily applied to indigenous heritage is a sign thereof in itself.

## 2.2 Critical Discourse Analysis

Discourse is a central attribute when researching the role of language in the creation of social reality. Discourse has varying meanings, from simply a language use to specific contexts of language use and it refers to texts, both written and oral, which can take any form from writing to symbols and pictures.<sup>24</sup> More specifically, discourse can be seen as the different ways the world, or its parts, are understood and described.<sup>25</sup> Discourses define the way we speak about and view the reality, and also contribute to the meanings of objects and concepts.<sup>26</sup> Therefore, they cannot be studied or understood without a context.<sup>27</sup> Discourses are also not static or exist in a vacuum, but are intertwined and constantly being reproduced and reconstructed.<sup>28</sup>

Critical Discourse Analysis (CDA) attempts to study the power structures, hierarchies, and social inequality visible in and reproduced through discourses.<sup>29</sup> As such, it is interested in the way language can be used to define and alter the ways power and its derivatives appear in society and is therefore often focused on the discourses visible in texts that are constructed by people in power, approaching the issue from the top-down point of view.<sup>30</sup> The focus then is both in these discursive practices constructing the social reality and power relations and how these practices advance the interests of certain social groups.<sup>31</sup>

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<sup>24</sup> Baker and Ellece 2011, 30–31; Jørgensen & Phillips 2002, 3–4.

<sup>25</sup> Jørgensen & Phillips 2002, 1.

<sup>26</sup> Jäger 2001, 43.

<sup>27</sup> Meyer 2001.

<sup>28</sup> Jäger 2001, 35.

<sup>29</sup> Wodak 2001, 2.

<sup>30</sup> Weiss and Wodak 2003, 14–15.

<sup>31</sup> Jørgensen & Phillips 2002, 63.

The critical in CDA describes its goal of picking apart the discursive practices which contribute to the current social reality, including the often hidden but unequal power relations within it, in an attempt to change these inequalities.<sup>32</sup> Therefore, according to some it should not even attempt to be neutral or objective in its approaches, even choosing research topics and materials where social inequalities are most present and explicitly taking the side of the “oppressed”.<sup>33</sup> This does not mean however that the process of analyzing should not be objective or unbiased, as per rules of proper research, but simply that the researcher is expected to clearly express their stance on the matter, rather than hiding behind feigned objectivity.<sup>34</sup>

Power is a central concept of CDA and refers to the differences in social structures and how these are connected and what effects they have. Power is expressed through language, and that is why language acts as a vehicle for challenging and changing power relations and social structures.<sup>35</sup> The way power and domination are present in society and the texts that represent them, can vary, from overt to more subtle expressions, to even obscuring them. Power is not necessarily something that is imposed on the lower level of society, as it includes the processes of resistance and even endorsement, but it is always related to control, of one group over another.<sup>36</sup>

CDA does not simply look at the used language of the discourse, the way the discourse is realized linguistically or the textual attributes where the discourse is presented in, but also the social context in which it appears.<sup>37</sup> It is also concerned with who has access to a discourse, being able to use the language as an instrument of power.<sup>38</sup> In the context of this thesis, that means understanding the way the heritage field, and heritage practices have developed and the current state of how heritage is defined. Although CDA is still rather rare in heritage studies, within the field it mostly seems to be focused on how the way that heritage is discussed in any given field affects also the way that heritage is practiced, viewed and managed. This, in turn strengthens the existing discourse which is causing this disparity of power that different communities possess over their heritage.<sup>39</sup>

The methodological status of CDA is still under debate, as there is no uniform opinion on whether it is a method, a theory or a movement. There is no single methodological approach within the field of CDA and the focus of the analysis tends to vary. CDA has multiple directions that all provide a slightly different approach to the analysis, and therefore ascribe to slightly different theories, but they do

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<sup>32</sup> Jørgensen & Phillips 2002, 63–64.

<sup>33</sup> van Dijk 2001, 96.

<sup>34</sup> van Dijk 1993, 252–253.

<sup>35</sup> Wodak 2001, 11.

<sup>36</sup> van Dijk 1993, 251, 254.

<sup>37</sup> Baker and Ellece 2011, 26.

<sup>38</sup> van Dijk 1993, 255–256.

<sup>39</sup> CDA has been used for example by Smith 2006.

not necessarily rule each other out and can be used in conjunction, also with other methods. Due to this malleability, it is generally accepted that CDA requires multidisciplinary approaches.<sup>40</sup>

Since CDA does not offer a single handbook to how the method is undertaken in practice, and it seems quite content to be used as a flexible rather than rigid framework, I have opted to not follow any particular sub-method, instead formulating my own which leans on the ideas of Jäger, with his idea of discourse strands as a categorization of thematically uniform discourses which are interconnected and Teun A. van Dijk's socio-cognitive approach, which mostly interests me due to its comprehensive approach to the analysis of politically contested discourses and social problems and his discourse-cognition-society triangle, as it approaches the discourses on multiple scales.<sup>41</sup> On top of these leanings I am also utilizing elements of the method proposed by Norman Fairclough.<sup>42</sup>

It has been argued, particularly by Wodak and Fairclough, that undertaking CDA requires at least cursory knowledge of linguistics, focusing on the linguistic structure and aspects of the text, and more precisely, the use of Hallidayan systemic functional grammar or Systemic Functional Linguistics (SFL) as a tool.<sup>43</sup> This aspect makes CDA a more difficult approach to those researchers who lack linguistic background. The analysis undertaken in this thesis focuses more on textual and contextual analysis, only occasionally delving into a finer analysis and utilizing the tools offered by linguistics.

Despite its focus on media texts, Jäger's approach which is divided into a more content focused structure analysis and language focus fine analysis offers a balanced manner of analysis. His system approaches the texts, or discourse fragments, through a system of categorization where different discourse strands visible in a particular discursive plane or a societal location, are placed in thematically appropriate areas, which I will be doing as well.<sup>44</sup> Van Dijk focuses on the aspects of discourse analysis which can reveal the uses of social power, which vary depending on the type of social issue and research question under study. He approaches the analysis in steps, which include: analyzing the topic of the discourse, local meanings including semantic properties of words and propositions, the more subtle 'formal' structures that are less controllable by speakers, the global and local discourse forms which refer to the genre categories as global and sentences and clauses as

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<sup>40</sup> van Dijk 1993, 252; Lee and Otsumi 2009, 67–68.

<sup>41</sup> Jäger 2001, 47–48; van Dijk 2001, 98.

<sup>42</sup> Meyer 2001, 28–29; Fairclough 2003.

<sup>43</sup> Wodak 2001, 8; Fairclough 2001, 126.

<sup>44</sup> Jäger 2001, 47, 49, 53–55.

local, as well as the analysis of the contextual features.<sup>45</sup> Both Jäger and van Dijk also consider the linguistic attributes and structures of the texts, but both of them have slightly differing focuses.<sup>46</sup>

This is why I have turned to Fairclough on the more fine analysis of the text. Intertextuality refers to the presence of other texts within the text, whether attributed or not, connecting them to a wider textual network.<sup>47</sup> Assumptions, more specifically, presuppositions are what is taken as given, in other words, a statement which contains background information implicitly assumed to be true and thus not questioned or elaborated further.<sup>48</sup> Intertextuality and assumptions present the dialogicality of the text, which means the extent that the author's voice discusses with and acknowledges other voices and texts.<sup>49</sup> The notions of knowledge and activity exchange, the first focusing on the giving of information and stating facts and the second on people acting or getting others to act, are acknowledged in this thesis and approached through speech functions and grammatical moods.<sup>50</sup> Speech functions include demand, offer, question and statement, and grammatical moods consider, on the level of grammar, whether the text is declarative, interrogative or imperative. These two aspects inform the way the text discusses with the readers and describes its intent.<sup>51</sup>

In the same vein, I am considering the issue of modality, which means the expressed obligation, necessity and probability of the language, as well as the issue of evaluation, or how the aspect of text is related to values and whether it is considered desirable or not.<sup>52</sup> Lastly, I am examining the representation of social actors, such as their inclusion, grammatical role and activity in the clauses and whether they are given agency in the texts.<sup>53</sup> This includes the concept of nominalization, the presenting an action as a entity which generalizes the subject and fades agency.<sup>54</sup>

I identified the discourses by coding and categorizing the texts under thematic topics using Jäger's example. Each of these topics speak about an aspect of indigenous sacred heritage and its management.<sup>55</sup> The issues concerning indigenous rights detailed in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) guided the process.<sup>56</sup> The discourse here then stands for the way that certain issues related to indigenous peoples conceptualize in the language used in the

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<sup>45</sup> van Dijk 2001, 99, 102–111.

<sup>46</sup> van Dijk 2001, 97, 99; Jäger 2001, 55.

<sup>47</sup> Fairclough 2003, 39–40, 47.

<sup>48</sup> Fairclough 2003, 40, 55.

<sup>49</sup> Fairclough 2003, 214.

<sup>50</sup> Fairclough 2003, 105.

<sup>51</sup> Fairclough 2003, 108–109, 115–116.

<sup>52</sup> Fairclough 2003, 164, 168, 170, 219, 172, 215.

<sup>53</sup> Fairclough 2003, 145–146, 135.

<sup>54</sup> Fairclough 2003, 143–144.

<sup>55</sup> Jäger 2001, 54–55.

<sup>56</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007.

context of heritage. It is a specific context of language use. Some, such as the discourses concerning different values present on sacred site and their equality, were linked in such a way, that they worked better as an example of a single discourse. Others, such as the discourses on control and participation, while similar, had different enough focuses that they were better discussed separately. Each discourse found in the analyzed data corresponds with an existing issue mainly related to lack of power, but the discourses themselves do not necessarily contain this issue or view it as a problematic topic.

## **2.3 Theoretical Framework**

### **2.3.1 Critical Heritage and Authorized Heritage Discourse**

The heritage field, from the institutions to the practices has always been hierarchical, with certain actors residing over others in the matters of heritage management and meaning-making. The decision-making has for the most part been directed from above, at first on a national level and later also globally. The dominating discourse has thus been Eurocentric and monumental, emphasizing the material nature of heritage and the ideas and values prevalent in the West, where heritage was traditionally seen as something from the past that must be preserved. Laurajane Smith calls this Authorized Heritage Discourse (AHD).<sup>57</sup> AHD values the so called western idea of the “authentic” nature of heritage, where conservation is seen as management of change or better yet, halting change altogether. Authentic therefore stands for as close to original as possible, where no change is allowed.<sup>58</sup>

While Authorized Heritage Discourse is undeniably a valid theory, and points at a discourse that is still generally the dominating one in heritage practice, one should not get too stuck on the dichotomy of East and West in heritage management matters. Western views may have been the dominant party for a time, but both have influenced one another. Therefore it is more useful to discuss the discourse through its focal points rather than creating an artificial divide between different geographies. The term Eurocentric comes from the fact that most of global heritage management was focused on Europe for the better part of 20<sup>th</sup> century, making it the historical starting point of the heritage management as we know now and is therefore a valid notion.<sup>59</sup> One can argue that to some extent the traditional western ideas of heritage management rely on different aspects than eastern ideas; however there exists notable regional and local variations in both areas, not to mention that “dominating” does in no way suggest that the less vocal and visible side has no power at all.

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<sup>57</sup> Smith 2006, 4.

<sup>58</sup> Smith 2006, 286, 5–6, 90.

<sup>59</sup> Aygen and Logan 2016, 412.

Irregardless, the discourse, while not unchanging, has inevitably affected the way heritage is defined, viewed, managed and protected throughout the world. It keeps the power of decision-making, management, and execution firmly in the hands of national governments and international heritage institutions, as well as heritage professionals. It prioritizes expert opinion and knowledge over that of the traditional custodians, leading to a situation where local communities no longer have power or control over their own heritage.<sup>60</sup> This has also inevitably affected the way the people outside this discourse are able to use their heritage in their identity-building, since heritage has been prevalent in the construction of identity on a national level.<sup>61</sup>

These kind of national discourses which attempt to build a unified identity often end up removing those parts that do not fit the “whole”, by trying to assimilate local identities and their expressions under a bigger entity of nationality or through outright banning them, instead of allowing for diverse expressions of local identities to be visible.<sup>62</sup> As a whole, this type of dissolving of certain parts of heritage that exists within a country is tightly intertwined with the idea and process of creating a national identity in an attempt to strengthen the cohesion of the country, which was especially visible in the aftermath of several dissolutions of empires and other greater and smaller nations and unions. At the same time this newly forged national identity and its arguably rich heritage is used as a justification for the existence of the nation as a sovereign entity, thus heritage is used as a central component in the building of a nation.<sup>63</sup>

While other discourses exist, they are often not given enough recognition on higher levels where it matters, as AHD has become the norm. This is especially evident among indigenous peoples, who may have trouble having their own heritage discourse acknowledged within the greater authorized discourse. It is no wonder then that indigenous peoples have heavily criticized the Western approach to heritage and the negative way it affects their own heritage.<sup>64</sup> The alternative approaches have gained some traction and legitimacy. Despite this, indigenous people are still not given much control over their own matters. This is contextualized in the ownership of heritage, which not only concerns the control and access to heritage, but also the power to produce knowledge about the past, which traditionally has not been in the hands of the traditional custodians but of the experts and state.<sup>65</sup>

The lack of control partially stems from the fact that indigenous people live within the borders of established states, therefore subjecting them to the laws and limits of these countries. While the

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<sup>60</sup> Smith 2006, 277–278, 284.

<sup>61</sup> Smith 2006, 277.

<sup>62</sup> Graham, Ashworth and Tunbridge 2000, 189.

<sup>63</sup> Graham, Ashworth and Tunbridge 2000, 185–186.

<sup>64</sup> Smith 2006, 276–277.

<sup>65</sup> Harrison 2012, 109.



majority of UN members have signed and adopted the UNDRIP, it is simply a declaration and therefore not legally binding under international law.<sup>66</sup> The existing power structures and discourses have had an effect on the way that heritage is managed and the way heritage has come to be viewed on a global scale as something universally shared and dictated from above.<sup>67</sup> Critical Heritage Studies, as an interdisciplinary field and a methodological and theoretical framework, recognizes these dependencies and attempts to offer an alternative approach to AHD, deconstructing and discussing the previously existing power relations and politics still evident in the heritage field.<sup>68</sup> In that, it also approaches and makes visible the socio-political matters and issues existent within heritage, which to some extent the heritage practice interacts with.<sup>69</sup>

### **2.3.2 Politics of Scale**

Within Critical Heritage Studies there are several important concepts, of which politics of scale is one of the more central ones. Scale is more commonly used in environmental studies and geography, in which its meaning varies a lot. There is then no single definition of scale, but in geographical sense, scale is recognized as a socially constructed, contested and interconnected construct which exist on the level of geographical territories and spatial areas of influence and as well as the economies, political processes and the workings of society at large within and among these areas.<sup>70</sup> The politics of scale can refer to, among other things, the way different actors within these areas interact with and restructure the existing and newly created scales of action and scalar relations, often steeped in the relations of power and authority.<sup>71</sup>

Heritage works on different scales, which interact with each other. These scales are evident in the different agents and participants in the heritage discussions as well as different types of heritage sites and practices. The scalar relations and scales are not simply hierarchical but exist on multiple levels and across multiple domains of politics, culture and life in general. These different scales and their potential issues have not been given much notion within the field of heritage studies, despite the fact that they can be seen as important contributors in the production of heritage and its different meanings.<sup>72</sup>

Politics of scale come into play in several ways that are interrelated. They are most visible on varying levels of impact, such as global, national, and local, but also exist on a cross-dimensional level on

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<sup>66</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007.

<sup>67</sup> Lähdesmäki, Zhu and Thomas 2019, 9.

<sup>68</sup> Lähdesmäki, Zhu and Thomas 2019, 2.

<sup>69</sup> Winter 2013, 533.

<sup>70</sup> Mahon and Keil 2009, 8–10; Jonas 2015, 26–27, 31.

<sup>71</sup> Leitner, Sheppard and Sziarto 2008, 159.

<sup>72</sup> Lähdesmäki, Zhu and Thomas 2019, 3–4.

converging cultural and social domains. They apply to institutions as well as to heritage practices, and appear in relation to all types of heritage, from physical sites to intangible practices and customs. They are constantly shifting and interacting, reconstructing the existing heritage structures and displaying the contested relations hidden between different scales.<sup>73</sup> Scale is then not a fixed state of being, but a process.

In the field of heritage studies, the scale can be found in multiple attributes, all of which somehow carry implications of power relations in them. Scale as a hierarchy refers to the often thought notion that despite the multi-scalarity of heritage, the scales visible are structured in a predefined order where one end is higher than the other. It is often linked to the concept of spatial, where certain geographical scales appear higher than others.<sup>74</sup> Scale as an instrument of power relies on this essentialist notion of hierarchy, and also envelops other scales where uneven power relations and hierarchies are present. It appears also between social actors, where the influence is often based on the available power, capital and information which are used to produce the scales to act on.<sup>75</sup> Scale as a process subscribes to the idea of scale as a socially constructed space, in other words, tying the material to its social realm and presents scale as something constantly changing. Scale as a network on the other hand emphasizes the interconnectedness of scale, where each scalar aspect can be seen to connect and interact with each other and even among different scales, such as happens for example in organizational heritage networks.<sup>76</sup> Because heritage is so tightly intertwined with the spatial realm, place, and the relations that exist between them, it is wise to take a look at the different geographical scales that are also present in heritage studies, which also contain the scales referred to previously.

The national scale of heritage has been, as was hinted at earlier, extremely influential in terms of heritage politics, largely due to its evolution being almost naturally in step with that of nationalism. This influence, while not nearly as nationally colored as it once was, has become the status quo. It is nowadays so commonplace it may be hard to spot, yet on closer inspection it is clear, since in most states it is the government, the nation itself, which controls and collects its heritage through laws and policies as well as national institutions such as libraries and theatres.<sup>77</sup>

Dominant and alternate discourses of heritage exist and interact on different scales. While it may seem that the international discourse enforced by the likes of UNESCO and its policies dominate the

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<sup>73</sup> Lähdesmäki, Zhu and Thomas 2019, 15–17.

<sup>74</sup> Lähdesmäki, Zhu and Thomas 2019, 13.

<sup>75</sup> Lähdesmäki, Zhu and Thomas 2019, 13–14.

<sup>76</sup> Lähdesmäki, Zhu and Thomas 2019, 14.

<sup>77</sup> Graham, Ashworth and Tunbridge 2000, 183.

heritage sector it does not automatically grant power over heritage to these international actors. Most of the time the policies are ratified and authorized by national heritage bodies, making the national level far more impactful than the international level. This also shows that while the global discourse is dominant alongside national, it is not uniform, since different state parties interpret and reproduce it in differing ways.<sup>78</sup> Both levels, however, interact with each other and shape each other and in doing so, continue to maintain the authorized discourse.

The local scale can be seen to exemplify a derivative of this trend, while at the same time containing it, since all heritage is, in the end, bound to a place.<sup>79</sup> Regardless of where heritage policies originate from, the management tends to focus on the lower levels, enabling variations in heritage practices between different localities. Local scales may therefore possess surprising amount of power in implementing the policies and practices, but it is always interacting with other spatial scales.<sup>80</sup> Although heritage is strongly present on the global scale, there is no truly global heritage because of its other spatial relations, and on the other hand, the issue regarding the ownership of heritage. “Whose heritage”, is an important question in the critical heritage studies and politics of scale, and this issue is most vividly contextualized on the global scale, because of the way it interacts with the lower scales.<sup>81</sup>

Needless to say, the idea of “universal heritage of mankind” so widely celebrated nowadays, later strengthened by the influence of the World Heritage Convention, heavily reproduces AHD and has been a topic of debates for some decades, especially in the West. It is especially visible with regards to indigenous objects in museums and the calls for their repatriation, but examples of it can just as well be found from World Heritage Sites which claim local heritage as universal heritage. It is also a way to strip power from the local communities with regards to their heritage.<sup>82</sup>

Interesting aspect of the universal ownership of it is that aside from certain examples, it mostly seems to appear as appropriation of non-Western cultural objects and human remains. This manifests for example in the case where 27 set of bones which were unearthed during an excavation in 1972 in Iowa. Of these remains, only ones, belonging to an indigenous woman, were sent to the museum to be studied while the rest, belonging to Euro-American pioneers were reburied.<sup>83</sup> While this is an old example, where later the Native remains were reburied and happened prior to the

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<sup>78</sup> Lähdesmäki, Zhu and Thomas 2019, 10.

<sup>79</sup> Graham, Ashworth and Tunbridge 2000, 197–198.

<sup>80</sup> Graham, Ashworth and Tunbridge 2000, 201, 203, 205.

<sup>81</sup> Lähdesmäki, Zhu and Thomas 2019, 15; Graham, Ashworth and Tunbridge 2000, 220–221, 237, 238.

<sup>82</sup> Harrison 2012, 109–110.

<sup>83</sup> Ubelaker and Guttenplan Grant 1989, 253.

*Native American Graves Protection and Repatriation Act*<sup>84</sup>, the fact that non-indigenous museums still house indigenous and non-western human remains, justifying it with research, while having a minimal amount of Western human remains, shows that this appropriation is still present in the sector. Yet, for a long time, that which was considered an ultimate example of the universal heritage, the World Heritage Convention, was dominated by the western ideas of heritage.<sup>85</sup> Thus among the issues that Critical Heritage Studies and the Politics of Heritage attempt to deconstruct are such contradicting ideas as the representation as well as the right to individuality and control.

Since politics of scale are inherently political and so tightly related to the issue of ownership, identity, and general power hierarchies visible in the heritage sector, they make for a natural approach to the discussion surrounding indigenous people, their rights in relation to their heritage and their identity building. It could be argued that among local communities the meaning of heritage is primarily linked to the importance of maintaining an identity, rather than preserving things for future generations, which separates it from the model presented by ADH.

## **2.4 Key Concepts Defined**

### **2.4.1 Cultural and Religious Heritage**

There is no single official definition for cultural heritage due to its multifaceted nature, although various official statements have attempted to define it within the context of different conventions.<sup>86</sup> It is a wide concept covering several different categories of heritage. The definition has also been forced to evolve over time, as society as a whole underwent significant changes. The first definition coined by UNESCO only concerned itself with built heritage such as monuments.<sup>87</sup> Currently UNESCO lists the categories as tangible heritage, intangible heritage, natural heritage, and endangered heritage, all of which contain subcategories.<sup>88</sup> One of the more thorough definitions comes from the Faro Convention assembled by the Council of Europe, which states that:

“Cultural heritage is a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions.”<sup>89</sup>

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<sup>84</sup> Chapter 32 – Native American Graves Protection and Repatriation 1990.

<sup>85</sup> Harrison 2012, 116–118.

<sup>86</sup> E.g. Convention concerning the Protection of the World Cultural and Natural Heritage 1972; International Charter for the Conservation and Restoration of Monuments and Sites (The Venice Charter 1964) 1964; Convention for the Safeguarding of the Intangible Cultural Heritage 2003.

<sup>87</sup> Convention concerning the Protection of the World Cultural and Natural Heritage 1972, Article 1.

<sup>88</sup> What is meant by cultural heritage? *s.a.*.

<sup>89</sup> Council of Europe Framework Convention on the Value of Cultural Heritage for Society 2005.

Traditionally, heritage was understood to only refer to individual possessions inherited upon death of the original owner, but this has since been broadened to mean “almost any sort of intergenerational exchange or relationship, welcome or not, between societies as well as individuals.”<sup>90</sup> For Graham et al., heritage is something created from the past in the present.<sup>91</sup> Rodney Harrison points out that the concept of what is nowadays considered heritage is nigh all encompassing, making the definition of heritage incredibly flexible and therefore applicable to almost anything that retains a link to the past and carries the implication of being under threat somehow.<sup>92</sup> A similar notion has also been presented by David Lowenthal, that heritage appears in everything and everywhere, not necessary based on the factual, historical past but the past nonetheless, even if recent. This means that heritage may even be based on mythical stories and the mythical history of a place or a nation. This new idea of heritage has come to encompass such concepts as roots and identity.<sup>93</sup> Lowenthal even likens heritage to a religion, such devotion and dogmatic practices he sees in the way heritage is interacted with.<sup>94</sup>

Lisa Breglia approaches heritage as a practice, formed through a “particular kind of social relationship” among the different users of a heritage, making heritage “an endlessly renewable resource, not some “thing” to be extracted from the context of its users or locked away for its own good.”<sup>95</sup> Similarly, Sanna Lillbroända-Annala presents the idea, that cultural heritage is seen as a process, constructed by people for various purposes. Heritage represents continuity, the connections it creates and, to some extent, their disruption. Cultural heritage is also something that always possesses a tangible and intangible dimension.<sup>96</sup> According to Laurajane Smith, heritage as such does not exist, but is a construct determined by the discourse on heritage. She too, approaches the concept with the notion that heritage is not a thing or a material object, but instead “a cultural process that engages with acts of remembering that work to create ways to understand and engage with the present”<sup>97</sup> Heritage is then basically dependant only on whether it is perceived as such.

According to UNESCO, 20% of the places on world heritage sites list hold religious or spiritual significance, making it the largest thematic category of cultural heritage.<sup>98</sup> On the Representative List of Intangible Cultural Heritage of Humanity, religious heritage refers to traditions with religious and

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<sup>90</sup> Graham, Ashworth and Tunbridge 2000, 1.

<sup>91</sup> Graham, Ashworth and Tunbridge 2000, 2.

<sup>92</sup> Harrison 2012, 5–7.

<sup>93</sup> Lowenthal 1998, xiii, xvii, 3–4.

<sup>94</sup> Lowenthal 1998, 1–2.

<sup>95</sup> Breglia 2006, 14.

<sup>96</sup> Lillbroända-Annala 2014, 25–26, 36.

<sup>97</sup> Smith 2006, 11, 44.

<sup>98</sup> UNESCO Initiative on Heritage of Religious Interest *s.a.*.

spiritual connotations still practiced throughout the world.<sup>99</sup> Within the context of this thesis, the term religious heritage refers to historical religious sites and buildings, sacred natural landscapes and formations, burial sites as well as practices and traditions of various peoples with religious or spiritual connotations as listed by the UNESCO Initiative on Heritage of Religious Interest.<sup>100</sup> The definition for religious heritage is problematic especially in the context of indigenous peoples and nations to whom religion is not a category that can be seen separate from other aspects of life. Their traditions and practices may at first glance not appear religious because they are not strictly related to religious practices but generally they are in some way connected to supernatural beliefs or rituals. In terms of indigenous peoples then, religious heritage may apply to a wider variety of things.

#### **2.4.2 Sacred**

The concept of sacred is one of the central analytical concepts within the discipline of Study of Religions. Sacred is something which is given special value.<sup>101</sup> Sacred includes the meaning of controlling behavior, that by the virtue of something being sacred, certain regulations come into play when interacting with it.<sup>102</sup> Another view is that whether something is considered sacred or not depends on the context it is in. For example, an object can derive its sacred meaning from a ritual context.<sup>103</sup> Similarly, according to Chidester and Linenthal, sacred spaces become sacred through a performance of a ritual, which sets the space apart from the ordinary world. According to this view, then, sacred spaces are created. The sacred is also not entirely separated from the ordinary, but inevitably entangled with it, most notably visible in the contested nature of sacred spaces.<sup>104</sup>

According to the more transcendently focused views, sacred is a point where humans can connect with a spiritual realm.<sup>105</sup> Mircea Eliade suggests that sacred is that which is not profane, and when something manifests as sacred it appears simultaneously as something entirely different, yet in the world it remains as it is.<sup>106</sup> He also states that certain places appear naturally as sacred, something which humans alone cannot reproduce.<sup>107</sup> To Veikko Anttonen, the term “sacred”, regardless of its language of origin, is not originally or simply a religious term but a geographical and social one, which

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<sup>99</sup> Intangible Heritage domains in the 2003 Convention *s.a.*.

<sup>100</sup> UNESCO Initiative on Heritage of Religious Interest *s.a.*.

<sup>101</sup> Anttonen 1999, 9.

<sup>102</sup> Hubert 1994, 11.

<sup>103</sup> Aden 2012, 106, 108, 116.

<sup>104</sup> Chidester and Linenthal 1995, 9–10, 15, 17–18.

<sup>105</sup> Anttonen 1999, 11.

<sup>106</sup> Eliade 1959, 10–12.

<sup>107</sup> Eliade 1959, 26–29.

has been used to code those places and times which were considered important for maintaining order in the social life.<sup>108</sup>

Anttonen further elaborates on this with the introduction of the concept of *topografia sacra*, places which appear as somehow exceptional and different from their surroundings and are named as points of separation between the inside and outside of a controlled area. This concept can also apply to non-geographical areas.<sup>109</sup> Generally, the concept of sacred seems to appear as a boundary between things, a separation of categories, meant to denote something as sacred and separated from the everyday. Sacred has different implications depending on the cultural context. As is the case with most words, it has its origin in a certain cultural context and can therefore never truly capture the deeper meanings the equivalent words in other languages stemming from other cultures may carry. The idea of sacred as something separated does not necessarily fit indigenous cultures where sacred is often seen to embody all manner of creation, being present in the land itself or appearing in completely mundane acts. Sacred can be present everywhere and in everything.<sup>110</sup> For the sake of simplicity I will be using the word sacred in this thesis when speaking of sacred sites, while acknowledging its limitations.

#### **2.4.3 Indigenous Peoples and the Free, Prior and Informed Consent**

As with cultural heritage, there is no universal definition for indigenous peoples. A Dictionary of Human Geography defines indigenous peoples and indigeneity as a “term to define cultures deriving from or rooted in a particular land or place. The term especially refers to those peoples with significant ancestral and spiritual relations to lands later colonized as settler societies.”<sup>111</sup> There are some issues with this definition however, as it can technically apply to groups and cultures of people who have lived in certain areas for generations and not “colonized” the area from their original inhabitants. One way of describing indigenous is therefore also taking into account their position within the countries, technically encompassing the indigenous nations within the borders of these states that sometimes can be considered settler societies.<sup>112</sup> While categorizing and dichotomizing between e.g. “indigenous” and “western” can be considered problematic, the distinction is necessary to make here.

Part of the reason why there is no single definition or criteria is because the indigenous peoples of the world are wildly different from one another and every individual group possesses different qualities, traditions and cultures, which might be best embodied by the addition of the letter s after

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<sup>108</sup> Anttonen 2010, 117, 119, 121.

<sup>109</sup> Anttonen 2010, 119–120.

<sup>110</sup> Hubert 1994, 13–14, 16; Thorley and Gunn 2008, 9.

<sup>111</sup> Rogers, Castree and Kitchin 2013.

<sup>112</sup> Shaw, Herman and Dobbs 2006, 268.

the words “indigenous people”.<sup>113</sup> Therefore many of the indigenous peoples have stated that only they can define who they are, making it an exclusive right of the indigenous peoples themselves.<sup>114</sup> From a global to national level, the need for an overarching definition has been questioned, because there is no single denominator that would work.<sup>115</sup>

An important concept to understand when discussing indigenous peoples, especially in the context of this thesis is the Free, Prior and Informed Consent (FPIC). FPIC is a significant principle of indigenous rights and refers to the right of indigenous peoples and local communities to be consulted and participate in the projects and activities affecting them or their lands, and is also tied to the right of self-determination. According to the concept, the consent must be given voluntarily, without any kind of external manipulation or pressure. It must be sought in advance before any activity is authorized or undertaken and respect the time indigenous peoples may require in their consultation project. Indigenous peoples must be provided with objective, comprehensive, understandable information related to all aspects of the proposed activity. Lastly, indigenous peoples must have agreed on their own terms, according to their own systems, to give this consent. The states are obligated to seek consultation with the indigenous peoples without undertaking any decisions pertaining to them or their lands, and the consultation should have an object of getting consent on the topic.<sup>116</sup>

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<sup>113</sup> Tuhiwai Smith 2012, 7.

<sup>114</sup> Hughes 2007, 11.

<sup>115</sup> State of the World’s Indigenous Peoples 2009, 4–6.

<sup>116</sup> Free, Prior and Informed Consent of Indigenous Peoples 2013; Free, Prior and Informed Consent *s.a.*.



## 3 The Many Faces of Heritage and Indigenous Peoples

### 3.1 Brief History of Cultural Heritage on a Global Scale

The network of cultural heritage organizations and institutions is vast and includes actors in many types of heritage, on national and international scale, and has organizations ranging from grassroots level to regional to non-governmental but internationally influential.<sup>117</sup> The International Council on Monuments and Sites (ICOMOS) is an international non-governmental organization dedicated to the protection and conservation of monumental heritage and endangered heritage, offering expert aid in conflict situations.<sup>118</sup> The International Union for the Conservation of Nature's (IUCN) primary goal is to enable and advance the protection and conservation of nature all around the world in an economically equal way.<sup>119</sup> The International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM) is an intergovernmental organization created by UNESCO with a focus on the conservation and safeguarding of all kinds of heritage on a global scale, as well as the research of conservation matters.<sup>120</sup> Traditionally, these bodies have acted as experts in terms of heritage management and protection, dictating from above. This role still exists to some extent, in that the aforementioned heritage organizations do act as advisory bodies for UNESCO focusing on the topic of World Heritage.<sup>121</sup> However, they have rearranged their policies giving more space to local and cultural variations and local expertise, trying to adapt their practices when needed.

Preserving objects and landscapes became associated with preserving cultural traditions somewhere in the mid 19<sup>th</sup> century.<sup>122</sup> Around the same time, protection of wilderness and natural sites became a topic of interest leading to the establishing of the first ever national parks in United States and Australia.<sup>123</sup> It is therefore logical that, when UNESCO was developing the concept of world heritage, they decided to also include natural heritage in the scope of convention. This was also influenced by the fact that the IUCN had in 1962 published the first *United Nations List of Protected Areas and Equivalent Reserves* which contained the world's most important national parks, landscapes and sites, some of which would later become World Heritage Sites.<sup>124</sup> Natural Heritage therefore gained recognition even before the World Heritage Convention was put in place.

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<sup>117</sup> Advisory Bodies *s.a.*.

<sup>118</sup> ICOMOS' Mission *s.a.*.

<sup>119</sup> About *s.a.*.

<sup>120</sup> What is ICCROM? *s.a.*.

<sup>121</sup> Advisory Bodies *s.a.*.

<sup>122</sup> Harrison 2012, 44.

<sup>123</sup> Harrison 2012, 44–45.

<sup>124</sup> Cameron and Rössler 2013, 3.

After management of cultural heritage became a state controlled affair, it slowly started to shift towards being an internationally recognized topic.<sup>125</sup> The will to act was largely influenced by the massive destruction and looting of buildings and cultural property in the two World Wars, a loss of cultural heritage on a never before seen scale. Following this, the sudden growth of cities and the industrial sector lead to increased urbanization, at the expense of existing structures, monuments and at times environmental areas as well.<sup>126</sup>

There was an evident worry of the survival of both cultural and natural areas of the world. This threat of disappearance is in fact still a reasoning behind preservation and its influence can be seen in lists consisting of endangered heritage sites and practices collected by UNESCO and several other organizations.<sup>127</sup> Several internationally significant events where heritage was acutely threatened influenced the development of the officially and internationally dictated heritage management movement. These were the rescue operation of several temples, monuments and archaeological objects in Egypt and Sudan out of the way of the Aswan High Dam in 1954, as well as the flooding of Venice in 1966, where a campaign was set to restore the city's neglected cultural heritage.<sup>128</sup> These events had a strong influence on the development of the idea of cultural heritage as a common heritage, something that belongs to everyone universally, therefore making it a shared responsibility to care for it.<sup>129</sup>

*The International Charter for the Conservation and Restoration of Monuments and Sites*, also known as the Venice Charter, in 1964 was the first to include this idea of common heritage in its text.<sup>130</sup> The Charter is nowadays considered outdated due to its ideas opposing reconstruction. The Venice Charter was followed by UNESCO's *Convention Concerning the Protection of the World Cultural and Natural Heritage* (World Heritage Convention), adopted in 1972.<sup>131</sup> The Convention can be seen as the most commonly accepted agreement concerning cultural heritage and perhaps the one with the most reach and effect as well. It laid out the framework for the measures of cultural heritage protection and has largely shaped the way cultural heritage is imagined and managed throughout the world.<sup>132</sup> Recognizing the issues that came from completely separating natural and cultural in terms of heritage, the World Heritage Convention was revised in 1992 to include the concept of cultural

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<sup>125</sup> Harrison 2012, 57.

<sup>126</sup> Cameron and Rössler 2013, 2.

<sup>127</sup> Harrison 2012, 81–82.

<sup>128</sup> Monuments of Nubia - International Campaign to Save the Monuments of Nubia s.a.; International Safeguarding Campaign of the City of Venice (1966, Italy) s.a..

<sup>129</sup> Harrison 2012, 61.

<sup>130</sup> International Charter for the Conservation and Restoration of Monuments and Sites (The Venice Charter 1964) 1964.

<sup>131</sup> Convention concerning the Protection of the World Cultural and Natural Heritage 1972.

<sup>132</sup> Harrison 2012, 62.

landscapes and mixed sites, properties with both natural and cultural significance. This change was mostly advocated by the Anangu and Maori, whose sacred areas of Uluru and Tongariro were designated on the list only due to their natural value, neglecting their cultural significances.<sup>133</sup>

Later, the idea for official recognition of intangible heritage arose partially from the critique that the World Heritage Convention mainly catered towards the Western idea of heritage, ignoring the intangible aspects, which in many countries were the most fundamental expressions of their traditional culture.<sup>134</sup> The first official step towards protecting these expressions of culture was the *Recommendation on the Safeguarding of Traditional Culture and Folklore* in 1989, which was deemed ineffective for not having any legal power and criticized for its definition of folklore and traditional culture. Its implementation also did not adequately involve the actual practitioners.<sup>135</sup> This was made up for in the *Convention for the Safeguarding of the Intangible Cultural Heritage* in 2003. Its purpose is to lay guidelines for the protection of intangible cultural heritage in a way that is respectful towards the communities and individuals concerned, acknowledging the role that individuals and communities have in its upkeep. It also attempts to draw attention to the importance of ensuring the continued existence of intangible cultural heritage and making sure its status as a significant part of world culture is recognized on both international and local levels.<sup>136</sup>

The issue of authenticity has been a central one in the discussions of cultural heritage. Its original definition, coined by ICOMOS, focused on the form and structure, but did not forbid later modifications if they themselves respected the integrity of the original design. This emphasized the importance of the authenticity of the whole.<sup>137</sup> ICOMOS and the World Heritage Convention considered material qualities to be more significant than the immaterial ones when considering the measure of authenticity. Some exceptions to this since have been approved, such as the reconstructed city centre of Warsaw.<sup>138</sup>

*The Nara Document on Authenticity*, influenced a radical change in how authenticity and conservation practices were viewed and defined in the heritage field. It recognizes the importance of respecting cultural and heritage diversity present throughout the world, as well as accepts more varied standards for the concept of authenticity.<sup>139</sup> It paved the way for each state to be allowed to develop conservation practices that are suitable for their own culture, rather than advocate for a

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<sup>133</sup> Harrison 2012, 123–125.

<sup>134</sup> Aikawa-Faure 2009, 15.

<sup>135</sup> Aikawa-Faure 2009, 21.

<sup>136</sup> Convention for the Safeguarding of the Intangible Cultural Heritage 2003.

<sup>137</sup> Cameron and Rössler 2013, 39.

<sup>138</sup> Cameron and Rössler 2013, 40–42.

<sup>139</sup> Nara Document on Authenticity 1994; Cameron and Rössler 2013, 89–90.

universal model.<sup>140</sup> Thus it made the definition of authenticity more contextual.<sup>141</sup> Despite this it is still often linked to the original materiality, accompanied by the desire to preserve as close to the original state as possible.<sup>142</sup> With regards to religious heritage, the authenticity, somewhat depending on the cultural context, may not necessarily be attributed to the material realm of the object but to the belief held by the people of its true origin. Karlström calls this “authenticity through performance”, that some object is given authenticity through the way it is treated and interacted with.<sup>143</sup> The question of authenticity is especially interesting with regards to religious heritage, because it introduces an idea of faith and an extra layer of meaning. Next I will be discussing the special nature of religious heritage.

### 3.2 Characteristics of Religious Heritage and Sacred Natural Sites

Religious heritage has only relatively recently become a more central theme in the global cultural heritage practice. ICCROM held a discussion forum in 2003 on the topic of Living Religious Heritage, which refers to a kind of heritage that is still actively being practiced. It linked practices to places and concluded that understanding the heritage of religious interest requires recognizing that the intangible significance of tangible religious objects, structures and places is the key to their meaning. It also requires sensitivity to the overall cultural-historical context to properly appreciate the spirit of place and its symbolic significance, beyond its material existence.<sup>144</sup> Spirit of place, as defined by the *Québec Declaration on the Preservation of the Spirit of Place* refers to “the tangible (buildings, sites, landscapes, routes, objects) and the intangible elements (memories, narratives, written documents, rituals, festivals, traditional knowledge, values, textures, colors, odors, etc.), that is to say the physical and the spiritual elements that give meaning, value, emotion and mystery to place.”<sup>145</sup>

UNESCO’s Initiative on Religious Heritage aims to play a role in the development of a thematic paper that will provide general guidance to State Parties looking to manage cultural and natural heritage that is of religious interest. Eventually, the long term implications of this initiative aim to help create an integrated set of policies on different levels – local, national, regional and international – that contribute to the “rapprochement of cultures and a harmonious relationship amongst peoples.”<sup>146</sup>

Religious heritage requires a more sensitive approach than other heritage, mainly due to the special connotations of sacred that are linked to it. Sacredness is not an inherent quality that places and

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<sup>140</sup> Aygen and Logan 2016, 414.

<sup>141</sup> Cameron 2016, 324.

<sup>142</sup> Karlström 2015, 29–30.

<sup>143</sup> Karlström 2015, 34–35, 32.

<sup>144</sup> Stovel, Herb, Nicholas Stanley Price, Robert Killick (eds) 2005.

<sup>145</sup> Québec Declaration on Preservation of the Spirit of Place, 2008.

<sup>146</sup> UNESCO Initiative on Heritage of Religious Interest. *s.a.*.

objects qualified as religious possess but is rather given to them by the communities that surround them. However, this sacredness is exactly what sets them apart: they have a value beyond that of cultural or historical importance. This is why it is especially important to involve the communities when discussing the management of these places. This may however require professionals to engage in practices that they consider detrimental to the integrity and general condition of the piece in question.<sup>147</sup> This partially stems from the fact that the most preferred method among conservation professionals has always been keeping the piece as close to its original shape as possible.

Preservation as a means to freeze something in time is not a way that best fits religious heritage. This holds especially true for living religious heritage where traditions and practices may change over time and where constant renewal may be the traditional way of managing things.<sup>148</sup>

Religious heritage is threatened by similar dangers as cultural heritage, such as theft, unsustainable tourism and destruction – whether natural or caused by humans– and banning the access to or the practice of certain heritage. Additionally, religious practices and religious physical structures are also threatened by the changing and deteriorating relevance of religion.<sup>149</sup> This deteriorating relevance can for example be seen in some of the Western countries, where, as per secularization theories, some organized religions have lost members. This has lead several of the physical structures of these faiths to change meanings and frames of existence, leaving churches either empty or turning them into secular buildings.<sup>150</sup> The threat of reduced relevance also touches on intangible heritage, where certain practices may disappear due to their transmission from generation to generation stopping.<sup>151</sup>

Sacred places and sites are a subcategory of the world heritage list. Most of them are traditionally owned and managed by indigenous peoples, which makes them especially vulnerable to outside threats.<sup>152</sup> Because of their special nature as a place of spiritual significance, they hold elements of both natural and cultural, and should therefore not be referred to as entirely natural. In the context of this thesis I will be referring to the category of sacred natural site (SNS) and separate it from all other categories of sacred sites even though they clearly also have cultural significance.

What separates sacred natural sites from the rest of religious heritage? The biggest difference seems to be the almost implicit nature of sacredness that these places possess. A church may be a sacred place because it was built that way, but it is rarely built on a place that was already considered

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<sup>147</sup> Stovel, Herb, Nicholas Stanley Price, Robert Killick (eds) 2005, 4–6.

<sup>148</sup> Stovel, Herb, Nicholas Stanley Price, Robert Killick (eds) 2005, 1–2.

<sup>149</sup> Protecting the cultural heritage, but from what? *s.a.*; Dive into intangible cultural heritage! Threats *s.a.*; The protection of religious heritage in Europe *s.a.*; Trends, threats and risks 2001.

<sup>150</sup> E.g. Merrit 2018; Kuruvilla 2019.

<sup>151</sup> Dive into intangible cultural heritage! Threats *s.a.*.

<sup>152</sup> Hubert 1994, 9.

sacred before. Churches and other similar constructions may also lose their sacredness when their role changes, but this is often considered to be only a negligible loss in the spiritual sense.<sup>153</sup> When it comes to indigenous peoples, the religious or spiritual practices as well as many aspects of their life are intricately connected to these places. Therefore losing land also means losing the connection to the living tradition and heritage. This might eventually end up irreversibly changing the way the society works. Sacred sites also often have, regardless of origin, a certain set of regulations regarding accessibility and behavioral guidelines for those at the site.<sup>154</sup> These rules and guidelines can remain in place even when the site is no longer in active use.<sup>155</sup> When it comes to categorizing sacred places characteristics of tangible and intangible heritage can be found. Sacred locations and objects considered to be religious heritage are clearly tangible as they exist physically, but they have a whole dimension of intangible, namely that of sacred, which is constructed and managed through stories and practices linked to it.<sup>156</sup>

On a global level, there has been an increase in acknowledging that sacred sites can play an important part in the protection of the environment of the whole planet. Because they are considered sacred by their guardians, the places have often been kept in an almost untouched state of natural balance and this, due to the traditional caring techniques used by their custodians has lead to them containing higher levels of biodiversity than their surrounding areas.<sup>157</sup> This of course is not a sole reason to protect these sites, as they also play an important part for the actualization of human rights and indigenous rights. The notion that the protection of SNS is beneficial for more than their natural values has progressed slowly into the global and national scale, which has birthed a host of documents concerning the protection of sacred places, some even legally binding.<sup>158</sup>

### 3.3 Issues Concerning Heritage

Cultural heritage is a concept that was developed in a western Euro-American context and therefore does not always match the idea of heritage elsewhere in the world. This heritage discourse has recently gained attention and lead to a shift in the way heritage is approached. One of the ways in which this manifests is the realization of the importance of including the local communities and their knowledge on managing of their own heritage, and therefore making for a more equal heritage practice.<sup>159</sup>

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<sup>153</sup> Thorley and Gunn 2009, 10.

<sup>154</sup> Carmichael, Hubert & Reeves 1994, 1–3.

<sup>155</sup> Ndoro 2005 on Great Zimbabwe.

<sup>156</sup> Verschuuren, Wild, McNeely and Oviedo 2010, 5.

<sup>157</sup> Healey, Halley and Stara 2018.

<sup>158</sup> International Efforts to Protect Sacred Sites *s.a.*.

<sup>159</sup> Logan, Kockel and Nic Craith 2016, 14.

The most influential heritage organizations have headquarters within Europe and up to the turn of the century a majority of the listings were from the western nations. However it would be too simplistic to say that the West has dominated the heritage field as that is only a partial truth.<sup>160</sup> This is particularly noticeable when turning the focus to intangible heritage and its listings, with a majority of the listings coming from non-western countries. Outside the World Heritage Convention exists a whole other level of heritage practice with manifests across all levels. However, on an international level the people from non-western countries still have very little influence in heritage matters, affecting the way the heritage is viewed on a global scale, thus potentially changing the way heritage is conducted on a local level.

The idea that cultural heritage is globally owned and therefore belongs to everyone is problematic in that the ownership is rarely equally realized. Indigenous peoples and other minorities are often denied the control over or access to their own heritage while in some cases they were made into popular tourist attractions.<sup>161</sup> While the World Heritage Convention is not the final authority on what constitutes as cultural heritage, it does have a wide range and it dictates a lot, often at the expense of the people it actually concerns. This is due to its focus on the national level.<sup>162</sup> Until quite recently it has been completely up to countries themselves to decide who can be involved, often leading to minority groups being ignored. In 2007, the role of communities was officially strengthened by adding the category of Communities to the list of the World Heritage Conventions Strategic Objectives. Its purpose is “To enhance the role of communities in the implementation of the World Heritage Convention.”<sup>163</sup> This puts the World Heritage Convention on the same line as the 2003 Convention by formally acknowledging community participation.

At the start of the cultural heritage movement, the representation on the heritage list was anything but diverse. The situation has improved over time, with minorities and indigenous groups getting more varied representation on the official heritage listings, while the heritage definitions have been broadened, making UNESCO’s claim on the universality of its Conventions more reasonable.<sup>164</sup> The 2003 Convention can be seen to, to some extent, balance the odds for the indigenous people. Since it makes an effort to bring the living traditions and culture into focus without placing value on them, it appears as a fair option to protect those expressions of culture that are often ignored for the benefit of more tangible expressions. The issues with inscribing any given heritage on a list of official

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<sup>160</sup> Aygen and Logan 2016, 410–411; Cameron and Rössler 2013, 47.

<sup>161</sup> Great Zimbabwe, holy site with restricted access, see Ndoro 2005; Devil’s Tower in USA with climbers wanting free access, indigenous peoples being restricted in their access, see Thorley and Gunn 2008, 16.

<sup>162</sup> Cameron 2016, 327.

<sup>163</sup> The “fifth C” for “Communities”, Decision: 31 COM 13B 2007.

<sup>164</sup> Harrison 2012, 116–117.

measures include the potential loss or shift of ownership rights, sustainability of the sites and the sustainable managing methods as well as issues that may potentially follow from active tourism and the subsequent commercialization of the heritage sites. This is especially evident in the case of indigenous peoples, who are often given less chances to manage their heritage. The cultural landscape category can be seen as a nod to indigenous people in recognizing their heritage on an international level.<sup>165</sup>

### **3.4 Studying Indigenous Heritage and the Rights of Indigenous Peoples**

The indigenous peoples of the world are not on an equal footing when it comes to their rights and livelihood. There are indigenous peoples that have managed to claim legal power and used that to fight for their existence, property and land rights and their rights to practice their traditions, but not all have been successful.<sup>166</sup> In some nations, the majority of its people are indigenous peoples, making it easier to successfully uphold a traditional lifestyle, but this is not the case everywhere.<sup>167</sup>

The situation also differs a lot among – and even within – the countries which have the most sizable indigenous communities living within their borders. In Canada for example, the Indian Act of 1876, pertaining only to First Nations peoples, allows indigenous peoples to live on communally possessed reservation land but forbids private ownership of lands. Some exceptions exist, for example the Nisga’a First Nation became the first in Canada to allow its citizens to gain ownership of land.<sup>168</sup> In United States, not all indigenous peoples are recognized as Federally Recognized Indian Tribes, which means that they have less control over their lands and other matters, possibly leading to breaking of rights.<sup>169</sup> Winnemem Wintu are an example of a tribe who is not federally recognized and therefore has to constantly fight against greed and developing plans affecting their traditional lands and sacred sites.<sup>170</sup>

There are several international agreements and decrees pertaining to the rights of indigenous peoples, the most influential of which are the International Labor Organization’s Indigenous and Tribal People’s Convention (ILO C169) in 1989 and *The United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) in 2007.<sup>171</sup> Both documents address the fundamental rights of indigenous peoples, largely addressing the same issues. However, while UNDRIP has been signed by

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<sup>165</sup> Meskell 2013, 161.

<sup>166</sup> Vigliar 2017 on Kenyan Ogiek case; Berry 2017; Strategic Litigation Impacts 2017.

<sup>167</sup> For example: The Pacific Islands: White, Geoffrey M. and Lindstrom Lamont 1993.

<sup>168</sup> Lindeman 2019; Nisga’a Landholding Transition Act s.a..

<sup>169</sup> Federally Recognized Indian Tribes and Resources for Native Americans s.a.; About Native Americans s.a..

<sup>170</sup> Winnemem Issues and the Journey to Justice s.a..

<sup>171</sup> C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169).



150 countries, the ILO C169 has only been ratified by 24.<sup>172</sup> This is most likely due to the fact that the UNDRIP is only a Declaration, and therefore not legally binding, whereas the ILO C169, when ratified and registered, creates a legal obligation for the parties involved to adhere to it. Additionally, the ILO C169 is especially keen on indigenous peoples' rights to occupy, own and manage their traditional lands, which would likely place limitations on the use of land and place a financial burden of compensation on national governments.<sup>173</sup> Regardless, the UNDRIP is considered to be a big step forward regarding the rights of indigenous peoples. It addresses such issues as control over decision-making on matters concerning them, land rights, the right to education and healthcare and the right to maintain and get support in maintaining traditions, language, traditional lands and traditional knowledge, building on the framework that ILO C169 laid before it.<sup>174</sup>

With regards to their cultural heritage there is the decision concerning the World Heritage Indigenous Peoples Council of Experts (WHIPCOE). The suggestion of its formation was made by a group of indigenous representatives from Australia, Canada and New Zealand. WHIPCOE was planned to be a committee consisting of indigenous experts, who would be able to give input and advice on the matters related to the protection and management of their values, knowledge and traditions that appear in conjunction with some World Heritage Sites, effectively protecting these expressions of heritage. It would have given more power to the indigenous peoples to decide and have an influence on the laws and discussions related to their heritage and traditions.<sup>175</sup> Their suggested tasks included sharing indigenous management practices among groups and creating guidelines on correct management of sites, as well as generally ensuring the visibility and presence of intangible heritage and traditional knowledge. It would have created an opportunity for WHIPCOE to act as an intermediary between indigenous peoples and the parties in the World Heritage Convention, offering input on the interests of minority groups as their own entity separate from state parties.<sup>176</sup> However, the proposal was rejected in 2001. It was suggested that instead "indigenous peoples could meet on their own initiative, be included as a part of State Party delegations to the Committee and were encouraged to be involved in UNESCO's work relating to the intangible heritage."<sup>177</sup>

As I am not a person of indigenous descent, I must be especially careful in approaching the topic of the thesis with appropriate sensitivity. I will not claim to speak for indigenous peoples or assume

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<sup>172</sup> Historical Overview *s.a.*; Supervision of Convention No. 169 and No. 107 *s.a.*.

<sup>173</sup> C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169).

<sup>174</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007; C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169).

<sup>175</sup> Meskell 2013, 161–162.

<sup>176</sup> Meskell 2013, 163.

<sup>177</sup> Report on the 25th Session 2002, para. XV.4.

how their heritage should be approached. I acknowledge that indigenous peoples are individuals and there are groups whose ideas on the matter may be completely contrasting. All the thoughts and analysis found in this thesis is based on my interpretation of the generally accepted rights of the indigenous peoples as detailed in UNDRIP which indigenous peoples were involved in the making of. Since I am not directly involved with indigenous peoples and only approach their sacred heritage through texts, all the information presented in this thesis is generally available and does not touch on topics that can be seen as being too sensitive to discuss.

## **4 Analyzing the Dominant Discourses of Indigenous Sacred Heritage**

The very notion of indigenous heritage is often bound to a place, a location which, while it manifests physically, also has intangible dimensions. Although most of the significance of the indigenous heritage is then concentrated on the local scale, its officially directed caretaking and protection all too often is not. The scale of local is therefore likely more meaningful and present in the indigenous issues. Although local heritage is not necessarily hierarchically lower than for example national or global, within the politics regulating it local heritage tends to be overlooked or simply ignored because the decision-making takes place on the higher scales, where the local communities may not be able to participate. This top-bottom hierarchy then stems from the lack of voice, which all too easily leads to a lack of power.

The opposing hierarchical and spatial scales carry with them both negative and positive implications. Incorporating indigenous heritage, such as their lands or items into the global sector by including them in officially protected areas or museum collections may lead to exploitation of in terms of tourism, lack of secrecy or losing access to the objects or sites. When heritage is globalized, it is considered to be heritage of all, leading to situations where original custodians may lose their rights to it. At the same time, confining indigenous heritage solely to the scale of local easily renders it invisible in the eyes of the world and the powers that be, which may affect its wellbeing and indigenous rights in general negatively. Heritage that is invisible and unknown to others outside indigenous groups might not exist for the officials, experts and governments, leading to situations where sites may be “discovered” and consecutively monetized without consulting its custodians or destroyed by parties that do not know about them, or do not care since there is no official law protecting them. This may lead to the site disappearing altogether.

The notion of scale carries through all aspects of heritage, and it is also prominent in the questions concerning management and conservation, because these issues also appear – as a form of AHD – in the discussions pertaining to the protection of cultural and natural heritage of indigenous peoples. The officially dictated conservation measures do not necessarily match the methods preferred by the custodians, which can easily lead to dismissing the rights of indigenous peoples entirely. Conservation should be multifaceted and take into account the spiritual and cultural values too. On the local scale this tends to be achieved.

Most heritage documents, regardless of their author, are hierarchically scalar, because their purpose is to rule, recommend or guide. The power to act is given to heritage experts or custodians, supporting either a top-down or bottom-up approach, often preferring the former. In both cases, the hierarchical scale is present, since either approach tends to value one over the other. Lately

indigenous peoples have been gaining more agency in their own matters, requesting it also in terms of their traditional lands and practices. The heritage sector is slowly catching up to this, but how well do their texts concerning spiritual heritage take into account the rights of indigenous peoples and the special requirements these may pose? What kinds of discourses inform the discussion of indigenous heritage?

The rights of the indigenous people, as defined by the *UN Declaration on the Rights of Indigenous Peoples*, clearly state that indigenous peoples have the right to maintain, control and transfer their cultural and religious heritage and practices freely without discrimination and with the aid and protection of the states they inhabit, also ensuring their access to, right to use and inhabit their traditional lands.<sup>178</sup> According to the Declaration, “Indigenous peoples have the right to manifest, practice ... their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects” not to mention that “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas”.<sup>179</sup>

Regarding the land rights, the Declaration states that “Indigenous peoples have the right to *own, use, develop and control* the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.” (emphasis mine) and “States shall give legal recognition and protection to these lands... Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.”<sup>180</sup> Not only that, the Articles 18 and 19 as well as 27 and 32 also assert that indigenous peoples should be allowed to be involved and make decisions on not only the laws concerning them but also concerning their traditional lands or lands given to them as compensation. Furthermore, they generally should have a possibility to participate in any decision-making pertaining to them. Any actions taken should be allowed with the FPIC.<sup>181</sup>

Although these rights are specified in the Declaration, the question stands whether or not they are realized in the official charters and guidelines concerning the religious heritage and sacred lands of the world and indigenous peoples. Whereas the UNDRIP was written in conjunction and by indigenous peoples, they are not always consulted when it comes to the formation of heritage

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<sup>178</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007.

<sup>179</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007, Article 12, Article 25.

<sup>180</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007, Article 26.

<sup>181</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007, Article 18, Article 19, Article 27, Article 32.

documents, and since these documents inform the ways that heritage is managed, the ways they approach indigenous heritage will affect these heritage practices in real life too.

## 4.1 Control

The discourses relating to power envelop many aspects of indigenous matters and appear both as a lack of and a possession of power, most visible in the discourse of control. The discourse of control stems from the issue of ownership and the indigenous peoples' right to be in control of decisions affecting them. The issue of control is interesting in that in many parts of the world, indigenous peoples are in the minority and may not possess legal power over their land or heritage. However, the rights of indigenous peoples' call for the right to be in charge of matters pertaining to them. Within the heritage sector, as it is subordinate to the global system of heritage practice mostly advocated by nation states as well as nation states who may or may not recognize the full rights of indigenous peoples, the issue of control seems to be one most present.

"The voluntary participation of local people in conserving sacred natural sites is a fundamental principle. ... Programmes for support of sacred natural sites should only be initiated with the consent of the custodians, who may fear damage or desecration to the site by outside involvement." (IUCN 2008, 44.)

"Principle 3: Promote stakeholder consent, participation, inclusion and collaboration." (IUCN 2008, 23.)

"Guideline 3.1 Prior consent: Ascertain the free, prior and informed consent of appropriate custodians before including sacred natural sites within new formal protected areas and protected area systems and when developing management policies affecting sacred places." (IUCN 2008, 23.)

"Guideline 6.4 Confirm custodians' rights: Support the recognition, within the overall national protected area framework, of the rights of custodians to their autonomous control and management of their sacred sites and guard against the imposition of conflicting dominant values." (IUCN 2008, 24.)

"It is paramount that custodians retain control of sacred natural sites when decisions over tourism are being made. In a number of cases, the traditional custodians of such sites have had to struggle to regain a level of control to ensure that the integrity of their site is recognised and maintained." (IUCN 2008, 61.)

"In efforts to improve the conservation of sacred natural sites it is important that the autonomy of their custodians is not compromised. Especially in the case of developing new protected area networks that include sacred natural sites, all efforts should be made to ensure that the management rights of custodians are recognised." (IUCN 2008, 68.)

The IUCN Guidelines discuss the importance of the custodians, which mostly refer to indigenous peoples, having control over their heritage, a sentiment which is visible throughout the document. This control extends from the decision-making process to management of the site as a whole and is one of the core principles of the Guidelines. This is emphasized by using imperatives, such as "ascertain" and "promote", and strong adjectives "paramount" and "fundamental", stressing the

view that indigenous peoples should, under perfect circumstances, be in control of their sacred sites. Decisions concerning the most desirable method of conservation and tourist activities are especially prominent within the text and both the concepts of autonomy and FPIC are invoked frequently, making the documents stance to be seemingly in line with indigenous rights. This is likely a carefully thought out direction considering the aim of the Guidelines. The constant call for FPIC also sets the stage in favor of the custodians, giving them, at least theoretically a full control over their sites.

“Where sacred natural sites occur within established and legally protected areas, their recognition by government authorities, subject to appropriate agreements, can legitimize and formalize the contribution of the traditional custodians to park management and can increase the overall protection of the entire area. ... Official recognition may increase visitor pressure, and thereby increase vulnerability to accidental or intended damage. The decision to recognise a particular sacred natural site should, therefore, be considered very carefully and will only be fully effective if the custodians of the site agree, give prior consent (see guideline 3.1), and express their willingness to support such recognition.” (IUCN 2008, 32.)

In some sections elaborating on the guidelines, the consent of the custodians appears as something that is dependable on outside influence and cannot be fully confirmed. For example, the decision to attach a certain SNS to an officially recognized area is only “fully effective if the custodians of the site agree, give prior consent and express their willingness to support such recognition.” This leaves the possibility of it happening regardless of consent given, although the possibility is somewhat mitigated by the line “subject to appropriate agreements.” This at least makes an attempt to invoke further legal limitations. The same paragraph frames the official recognition as something mostly beneficial in terms of protection, supposedly giving a formal approval for the management efforts of the custodians. The text omits the final decision-maker on the matter, making it unclear whether custodian input is actually even required or acknowledged.

“Guideline 1.3 Recognition: Initiate policies that formally recognise the existence of sacred natural sites within or near government or private protected areas and affirm the rights of traditional custodians to access and play an appropriate, ideally key, role in managing sacred natural sites now located within formal protected areas.” (IUCN 2008, 22.)

“Guideline 5.5 Decision-making control: Strong efforts should be made to ensure that custodians of sacred natural sites retain decision-making control over tourist and other activities within such sites, and that checks and balances are instituted to reduce damaging economic and other pressures from protected area programmes.” (IUCN 2008, 24.)

Even within the guidelines section the idea of absolute control is entertained but not given a proper base. The lack of imperatives and strong modalities in 1.3 appears as an example of a weaker stand in terms of confirming custodian control. It provides a softer approach, perhaps due to its focus on the interaction between site managers and the wider national policies and private ownership of land that

direct the management and governance of sites as well as their accessibility. In many of the other sections the site managers are clearly more in charge, whereas here they seem to be painted as a subject to the national as well as the private sector, which the Guidelines cannot directly affect. The syntactic structure of 5.5 on the other hand, could have been switched to follow that of the earlier guideline, placing “ensure” as the main verb, instantly expressing more urgency and certainty. The passive form of the clause makes its target unclear, therefore hiding the agent and the responsibility.

“If these sites are listed, care should be taken that the listing is with the free, prior and informed consent of local communities and their spiritual leaders.” (IUCN 2008, 54.)

“If custodians agree, appropriate national lists of sites under threat could be developed to bring attention to their plight and also to stimulate action toward protection and recovery.” (IUCN 2008, 64.)

However, the text also contains conditionals, such as “If custodians agree” a specific action can be completed. If something is done it must be done with the consent of the custodians. While the custodians in this case were not the initiators, they are given the final decision on the matter. This, together with the requirement of FPIC would, in theory, make actions not approved of by them unlikely to be executed, therefore placing the control and the power to decide and to initiate actions firmly in the hands of the custodians. However, such conditionals are only visible in the cases detailed above, that of listing a sacred site on a national list of threatened places, which may both bring unwanted attention as well as reduce the control that the custodians may already hold.

Something that appears throughout the document is assigning custodians as passivized social actors. This passive role can have an effect of disempowering them, therefore making the discourse of control appear inverted for the benefit of the managers. Regardless of the sentiment of the clause, whether the control is deemed absolute, the custodians do not appear in the role of the initiator, although they are sometimes given this role. They are named and given agency with regards to the heritage, but within the text they appear as beneficiaries, being the target of the actions of the agent. This may partially result from the fact that custodians, be they indigenous peoples or not, are not the only stakeholders who may hold influence over the sites and not the only ones who wish to retain control. Since site managers are used as negotiators between the site, custodians and other stakeholders, the guidelines may attempt to appeal to all of these parties simultaneously. It does strip some agency off of them and with it influence. However, as the actions take place as the behest of custodians, they technically have the ultimate control. It is clear that IUCN wishes to see more control in the hands of the custodians, especially indigenous peoples, but it is also clear that this control cannot always be confirmed.

“Many custodians reject the Western concept of “ownership” but embrace community responsibility for taking care of land, water, sacred sites and other “resources”.” (IUCN 2008, 7.)

“Guideline 6.5 Tenure: Where sacred natural sites have been incorporated within government or private protected areas in ways that have affected the tenure rights of their custodians, explore options for the devolution of such rights and for their long-term tenure security.” (IUCN 2008, 25.)

An interesting aspect of the IUCN Guidelines’ discourse on control is that it does not seem to include ownership, as stated in the Introduction: “many custodians reject the Western concept of ‘ownership’.” While custodians may refer to any number of groups, here I take it to mean indigenous peoples and analyze accordingly. Further in, it refers to the “tenure rights” of the custodians, which refers to the legal regime often found in common law systems, which deal with the “rules, authorities, institutions, rights and norms that govern access to and control over land related resources.”<sup>182</sup> The notion of ownership is however something invoked within UNDRIP by the virtue of “traditional ownership” and it makes a direct reference in the right to “own, use, develop and control” the lands they have possessed one way or another.<sup>183</sup> Furthermore, the question of to whom heritage belongs is one of the central issues of politics of scale, as the ownership often determines those who are in control of the heritage. The guidelines, by speaking for the custodians that “many” do not accept the concept, completely ignore the ones to whom the lack of ownership is an issue, effectively brushing the topic under the carpet. Tenure can be seen as a kind of amendment as it is not necessarily grounded in official policies but can also be based on informal customs, which may be preferable to indigenous peoples but also runs a risk of leading to the disappearance of these rights without repercussions.

The revealing part is “the Western concept” which likely refers to property rights, a concept which does not align with that of traditional ownership. Where the traditional concept of ownership views ownership as based on communal right of access and use of their traditionally occupied or associated lands, the Western concept considers it to be more related to possession and formal agreements, as a possession of property.<sup>184</sup> The reconciliation of these two concepts of ownership may be impossible, but for as long as the traditional rights of ownership are not legally recognized, the western way may be required to ensure that the rights of the indigenous peoples are actualized.

The guidelines appear on the scale of global, but act on the national scale and apply to the local scale. This puts some amount of limitations to their applicability, as the national legislation must be

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<sup>182</sup> Indigenous peoples’ collective rights to lands, territories and natural resources 2018, 3.

<sup>183</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007, Article 26.

<sup>184</sup> Traditional Ownership *s.a.*; Indigenous and Tribal Peoples’ Rights Over Their Ancestral Lands and Natural Resources *s.a.*; Objects, subjects, and types of possessory interests in property *s.a.*; Property Law and the Western Concept of Private Property *s.a.*.



followed. This continues to show that the national level is still the most influential because non-binding global policies and guidelines cannot be applied as is without the consent of the national actor. Although the guidelines are structured in such a way that they move from the level of specific and local to the more general and national, the national influence and its limitations with it can be seen on all levels. It is clear that IUCN wishes to improve on these, on both the protection of sacred sites as well as on the wider level of the organization, by improving the position of the lowest denominator, which in this case, is the indigenous peoples. An example of this can be seen in the IUCN Members' Assembly's decision to vote, for the first time in the organization's history, for the creation of a new membership category for Indigenous peoples, giving them a place in the IUCN's decision-making process as well as recommending that all protected areas will become no-go areas for "damaging industrial activities and infrastructure developments".<sup>185</sup>

The Guidelines make several references to UNDRIP, specifically of the articles referring to the maintaining of their spiritual traditions and bonds to places as well as those regarding land rights and management rights. The Guidelines generally make many intertextual references to various documents (such as, Convention on Biological Diversity and Akwé: Kon Voluntary Guidelines) concerning the indigenous rights, protection of natural and sacred natural sites, and the general biodiversity, cementing its position within the wider heritage and indigenous discourse. In addition to this, IUCN, with the Specialist Group on the Cultural and Spiritual Values of Protected Areas (CSVPA) has created and runs projects focusing on the protection of SNS. These include the the Sacred Natural Sites Initiative and the development of a second set of guidelines which "concern the promotion and integration of the cultural and spiritual significance of nature in protected and conserved area management and governance", focusing more on the mainstream faiths while also including other custodians, such as indigenous peoples.<sup>186</sup> It is clear that IUCN and its partners are aiming to build a wider network and system of management for natural site protection which includes rather than ignores the spiritual and cultural aspects of the site, incorporating the custodians in the process. Against this background, the Guidelines seem to attempt to do their part in fulfilling this goal.

"6.3 Policy development should also include consideration of other factors affecting the future of a *place* such as the owner's needs, resources, external constraints and its physical condition." (The Burra Charter 2013, 4, emphasis original.)

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<sup>185</sup> IUCN Congress boosts support for Indigenous peoples' rights 2016.

<sup>186</sup> Best Practice Guidelines *s.a.*; IUCN Best Practice Guidelines: Cultural and Spiritual Significance of Nature in Protected Area Management and Governance *s.a.*; Sacred Natural Sites *s.a.*.

In the case of the Burra Charter, the amount of given control is dependable on various factors, which determine whether or not the custodians are given any control over matters related to the place. This is not clearly articulated but rather visible when reading between lines in different parts of the text. Any action suggested is formatted in such a way that there exists a condition under which it can be broken. This can be seen in 6.3 where several conditions affect “policy development” and “the future of the place” can be seen to encompass a multitude of things. Although it refers to “the owner’s needs”, it is not specified whether this applies to indigenous peoples as the owners of their sacred sites, or owners of private property on which certain sites may be located.

Regardless of ownership, the control appears to be mostly possessed by those who are in charge of developing the policy, that is to say, the heritage practitioners. The elements that the policy development should consider are presented as equal in relation to each other, in an attempt to avoid any value-judgments. Hardly any of the control is mentioned in relation to management or conservation. In terms of developing a policy this control is lacking even in the case of the owners, since they appear only as a single aspect among many, which may determine how things are done. Therefore the owner’s needs are not considered to be more meaningful than other potential effects, alienating the concept of ownership from the discourse of power and control.

“Article 10. Contents Contents, fixtures and objects which contribute to the *cultural significance* of a *place* should be retained at that place. Their removal is unacceptable unless it is: the sole means of ensuring their security and *preservation*; on a temporary basis for treatment or exhibition; for cultural reasons; for health and safety; or to protect the place. Such contents, fixtures and objects should be returned where circumstances permit and it is culturally appropriate.” (The Burra Charter 2013, 5, emphasis original.)

For indigenous peoples, the single allusion to control appears in the context of the objects associated with cultural significance, a mention which is small but meaningful. The issue of indigenous objects and their ownership and repatriation, especially of those with sacred attributes, is one of the central topics of indigenous rights on the global scale, especially in the context of the heritage and museum sector. Article 10 of the Burra Charter establishes that “contents, fixtures and objects...” contributing to the cultural significance should be kept at the place they belong to. It leaves many conditions under which this can be deviated from but ultimately agrees that if the condition of the object allows it and if it is “culturally appropriate” the objects removed should be returned to the place when possible. Many of the conditions under which this can be broken seem dubious at best, and vague enough that removal of an object could be executed for almost any reason possible.

“Assessments of significance should include an analysis of objects associated with the place. Guidance: Some Indigenous people believe that objects hold great power or embody spiritual beings, and that they

should not be removed from their place of origin. ... Therefore, the link between place and object can be a powerful and symbolic one, such that the significance of some places cannot be fully assessed without an analysis of certain objects found there or linked to the place. Heritage practitioners should not assume that Indigenous people will consent to elements of their material culture being removed to museums, laboratories and research facilities for scientific analysis or exhibition. It is essential to consult with the relevant traditional owners if the removal of objects is proposed or envisaged in order to avoid causing offence or concern. It may be of great importance to Indigenous people that objects that have been removed in the past be returned or 'repatriated' to their place of origin. The existence of such objects may enhance the cultural significance of the place. The nature, form and location of 'keeping places' should be determined by the relevant Indigenous people, with heritage practitioners advising on the requirements for the conservation of objects and materials held at a keeping place." (The Burra Charter Practice Note 2013, 5, emphasis original.)

Additionally, in the Practice Note, the removal of an object is only approached through its relation to research and exhibits. This then leads to the conclusion that for any other reason, such as the ones stated in Article 10, regardless of whether it is "for ensuring their security" or "for the protection of place", the object may be removed. This leaves the possibility that the indigenous peoples are not consulted or involved in any way, denying them a means to affect the decision. While it states that the consultation of indigenous peoples is "essential" using a strong adjective, it seems to be only when the removal concerns research or exhibition. This is then subverted within the same section, when the issue of repatriation is brought into the discussion. Repatriation is considered a positive thing, but seems to be viewed that way due to how repatriation may enhance the cultural significance of the place. The "keeping places" of repatriated objects "should be determined by the relevant indigenous peoples", which appears to pass the control over items to the relevant custodians. This control is completely denied by the following clause, where heritage experts should advise the custodians "on the requirements of conservation". The indigenous peoples may therefore be allowed to possess the item, but not own it. Because if they were truly given ownership, they could work with the item as they see fit. The text however does not offer an alternative to expert advice nor the option to refuse it.

In the Charter, the value of the object is only seen in connection with the cultural significance<sup>187</sup> of the place. This means that any object not seen contributing to the value of the place can freely be removed. The Practice Note has a slightly different outlook, in that the value of the object comes from the meaning attributed to it by indigenous peoples and the connection they view it has with the place. While the Note still explains the reason for retaining or returning the object to the place by its

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<sup>187</sup> Cultural significance is an aspect of the Burra Charter that refers to the value that place and its associated heritage may carry for various people and which makes it significant enough for maintaining. See: The Burra Charter 2013, 2.

contribution to the cultural significance of the place, it also recognizes the importance that indigenous peoples retain control over these objects. Despite this recognition being visible in its understanding of the significance of the objects to the indigenous peoples, this control is not directly stated but approached in a roundabout way, which then serves to erode the control it presents.

Overall, the concept of control seems to be faded out as neither of the Burra Charter texts directly mentions control of any kind. Both documents, but most visibly the Burra Charter have been written in such a way, that the actor, the one taking control and the one who acts upon the Charter is unknown and not alluded to. This muddles the power relations within the text. Although the indigenous peoples are mentioned, especially within the Practice Note, they are lacking agency. They are spoken about as beneficiaries, where they are still participating but not actively. They are delegated a role of consultants and keepers of objects, instead of managers of their sacred sites. Even in this role their power is limited, if strongly obliged, since the control discourse is so embedded within the Charter that it makes it difficult to see that the real control is given and therefore confirmed to be in the hands of the practitioners because the Charter is aimed at those.

“Indigenous people must be effectively involved in decisions affecting their heritage, and in managing places significant to them. Land managers must respect the rights of indigenous people to make decisions about their own heritage.” (Australia ICOMOS Statement 2001.)

The ambivalence of the discourse on control may partially stem from the mention it gets in the Statement on Indigenous Cultural Heritage. The way the Statement presents these issues is highly modalized, making the involvement of indigenous peoples an obligation rather than a recommendation. Interestingly, the exact allusion to control, while direct, and certainly useful, is also narrow. It only pins the duty to respect the decision-making rights of indigenous peoples on land managers, a clearly defined group, making it possible for other entities, such as practitioners, to act without this guidance. It also does not specify which kind of actors would belong under the notion of land manager, confirming the attitude of the text on control discourse to be vague at best.

The discourse of control clearly demonstrates the way power is delegated to the higher hierarchical scales of the heritage sector, away from the custodians. Ownership of sites and objects is faded or outright removed from the discourse, despite it being one of the central attributes of control as described in UNDRIP. The discourse is subordinate to the national sector of heritage practice, and the heritage experts, making it potentially inaccessible to indigenous peoples. Its central attributes here include consent and autonomous involvement of indigenous peoples in decision-making and the management of heritage. The discourse also appears as control that heritage practitioners are automatically assumed to possess over these aspects of heritage, especially in the case of the Burra

Charter texts. One notion of the discourse visible in the IUCN Guidelines is control as a basic human right, and the focus on the FPIC which theoretically delegates full control to indigenous peoples. This intent however is overturned in many parts and is not visible throughout the document. The Burra Charter texts on the other hand have almost entirely ignored the discourse, only approaching it through the concept of ownership. While the Australia ICOMOS Statement does explicitly mention the discourse, it also delegates it to a very narrow context. This shows that Australia ICOMOS implicitly assumes control in the case of all indigenous heritage matters in Australia, unlike IUCN which would prefer the control to be possessed by indigenous peoples themselves.

## 4.2 Participation

The discourse of control ties closely in with that of participation, but is not necessarily hierarchically higher. While the two are related, there appears to be some difference between the concepts in the ways they manifest both within text and in the real world. Indigenous peoples as actors in the management of their own heritage is one of the more central themes of the UNDRIP and clearly showcases the scales of heritage still evident in the sector. The degree of participation suggested in the analyzed documents varies from a somewhat passive approach of consultation to active collaboration with heritage experts.

“The participation of a wide range of stakeholders at the community level is now accepted standard practice, although it is in need of ongoing reinforcement and sometime relearning. Community participation in the development of national-level policies ... is less common. The result is that policies are often developed remotely ... and such policies are often inappropriate.” (IUCN 2008, 45.)

“Participation of key stakeholders is a critical element and has become standard best practice for park planning.” (IUCN 2008, 36.)

“Guideline 1.4 Consultation: Include the appropriate traditional cultural custodians, practitioners and leaders in all discussions and seek their consent regarding the recognition and management of sacred natural sites within or near protected areas.” (IUCN 2008, 22.)

“Guideline 3.3 Inclusion: Make all efforts to ensure the full inclusion of all relevant custodians and key stakeholders, including marginalized parties, in decision making about sacred natural sites, and carefully define the processes for such decision making, including those related to higher level and national level policies.” (IUCN 2008, 23.)

The participation discourse at first glance seems normalized and is alluded to as a “critical element” and “standard practice”, at least in the current management planning for officially recognized sacred sites. It refers to the participation of custodians on the management as well as the participation of other stakeholders permitted by the custodians. The text speaks about the stakeholders as a wider group involving local and national governments and also stakeholders within the communities’ local

to the site, including the traditional custodians. This participation is not limited to only consultation but includes the management and planning processes as well, appearing throughout the guidelines as something to strive for, in all aspects of the site management, but it is not something that is forced upon either the managers or the custodians.

In both guidelines 1.4 and 3.3 the control over participation is possessed by the agent, since “make all efforts to ensure the full inclusion of ... custodians” as well as “include the appropriate ... custodians” position the custodians as recipients. One could argue that this is due to IUCN guidelines being targeted at the area managers rather than indigenous peoples and had this been reversed the wording could instead be placing the custodians as the more powerful party. While similar structures are visible in the more control-specific texts as well, here it seems as a conscious approach, used to equalize the different stakeholders as participants. However, with participation being put under permissible actions, it also makes the control, noted important, appear less self-evident. The text is not always certain of its stance when speaking about the participation of custodians and recognizes that the national level may completely overlook it as a possibility, which may lead to unfit policies being passed. This showcases the influence of the national scale over that of the global, since nation states are ultimately the ones calling the shots and on those scales, the discourses on indigenous rights and heritage may be drastically different to the discourse visible on the global scale.

“Guideline 3.2 Voluntary participation: Ensure that state or other stakeholder involvement in the management of sacred natural sites is with the consent and voluntary participation of appropriate custodians.” (IUCN 2008, 23)

The above example of this switches the situation around, where the custodians appear as agents instead, they possess the power giving ultimate control to the custodians, except that an outside force (by use of imperative “ensure”) is needed to affirm that no one is unjustly participating. As has been mentioned, the site manager appears as a middleman between the custodians and other stakeholders. This is a positive development as it adds a neutral party monitoring to the process, which should help guarantee that custodians’ rights are respected while ensuring the best possible protection for the site itself. It indicates that the site managers are always included, regardless of the wishes of indigenous peoples. Therefore while participation is not forced upon either party, indigenous peoples might only be allowed to participate if it happens in agreement with the site managers. This may result from the fact that community participation is a relatively newly accepted phenomenon within heritage management, and still finding its bearings. While IUCN acknowledges it as a standard practice, many other entities, such as national governments might not.

Participation appears as a less powerful but more practical form of control within the IUCN Guidelines. Whereas control is constructed, but not always realized within the language of the text, as a concept that originates from the custodians, participation is something attributed to the custodians by the area managers to whom the guidelines are directed at, making it sometimes happen at the mercy of the practitioners. Participation assumes the involvement and cooperation of multiple parties, and while the text clearly attempts to treat different stakeholders as equal, different parts of the text give preference to different stakeholders as being in control, all of which are more or less overturned by the guideline 3.2. What remains is the leading role of the managers.

The text also recognizes that participation is not necessarily something that the custodians desire, and this should be respected, whereas the general consensus of the Guidelines is still clearly that participation and cooperation are important for the well-being of the site and its custodians. Participation can also be considered beneficial for a more critical approach to heritage management and with it, more equal interactions among the custodians and the site managers. Since AHD favors the work of the experts over custodians, encouraging participation of custodians on the local level is bound to give more power to the custodians over their heritage. This then leads to more equal and friendly relations among the two groups, while expanding the idea of what is “correct” conduct in the heritage field. It can help the custodians to “reclaim” their heritage in the eyes of the wider audience and especially the official sector, as it makes them more visible and present.

“26.3 Groups and individuals with *associations* with the *place* as well as those involved in its management should be provided with opportunities to contribute to and participate in identifying and understanding the *cultural significance* of the place. Where appropriate they should also have opportunities to participate in its *conservation* and management.” (The Burra Charter 2013, 8, emphasis original.)

“It is critical that assessments of cultural significance for Indigenous heritage places reflect the views and input of the relevant Indigenous knowledge-holders. ... Practitioners should work collaboratively with Indigenous people and engage with the Indigenous knowledge-holders to gain historic, ethnographic and anthropological data which may be held in a variety of sources including oral, and visual sources, as well as drawing on and sharing information from other sources such as published accounts.” (The Burra Charter Practice Note 2013, 3, emphasis original.)

Whereas the IUCN Guidelines quite willingly cede the control over the site matters to the custodians and require participation as an essential aspect of site management, The Burra Charter and its Practice Note’s approach seems somewhat more ambivalent. As in the case of control, participation only makes a cursory appearance although it is more articulated within the texts than the discourse of control. Both of the documents focus on the participation of relevant stakeholders with connections to the place, including indigenous peoples, in the assessment of cultural significance,

largely ignoring the other aspects of participation. Some exceptions can be found, such as in 26.3, according to which these unspecified custodians who should have the chance to participate in the management and conservation of the heritage “where appropriate.” The text does not specify what appropriate may entail in this context, but it shows that the people are not given an unequivocal opportunity to participate, even when they may otherwise be in charge of the site management.

“Article 12. Participation *Conservation, interpretation* and management of a *place* should provide for the participation of people for whom the place has significant *associations* and *meanings*, or who have social, spiritual or other cultural responsibilities for the place.” (Burra Charter 2013, 5, emphasis original)

Supporting this, “provide for the participation of people” in the Article 12 seems to suggest only that it should be made possible for the people with ties to the place to participate, rather than directly stating that these people have the right to participate. The way the sentence is constructed recognizes that the different aspects of heritage management should allow for this participation to happen, but the condition of participation does not exist on its own. Neither the sentence nor the text surrounding it provides a clear answer for the question on who grants this permission to participate, but when read with the rest of the Charter, it seems that the passive voice in the text preferences those who are knowledgeable, the aforementioned heritage experts. On top of this, the Article calls for “significant associations”, adding a value factor to the bond that communities may have with the place, placing the burden of proof of the existence of these ties on the communities.

“Of key importance is the fact that the practitioner may not necessarily be equipped with the knowledge to make an assessment of significance about a place where that knowledge resides in Indigenous parties. This calls for a particularly inclusive, holistic and consultative approach from practitioners working within this field.” (The Burra Charter Practice Note 2013, 2.)

On indigenous peoples specifically, the discourse of participation seems to be visible mainly in relation to the cultural significance. Participation only refers to the knowledge aspect of heritage work, sharing information with heritage practitioners. In essence, they can share their knowledge concerning the place, including what makes it significant, but that is the extent of their participation. They are limited to consultation only, despite the calls for “inclusive” and “holistic” approaches in the rest of the clause. While their contribution to that is considered important, it shows the lack of power that they have. The Charter works fully on the scale of national, barely acknowledging the existence of the local scale where heritage may be approached differently. There are certain aspects which contradict with this, such as its attempt to try and understand certain heritage from the point of view of its custodians or understanding that significance of the place is not fixed. This still does not change the Charter’s emphasis on the “Burra Charter Process”, which all significant heritage places are to be included in, ultimately referring back to only one kind of approach.



The Practice Note of the Burra Charter is built around a collection of issues that “may arise when assessing the cultural significance of Indigenous heritage place.” Cultural significance appears to be the central topic of the heritage process advocated by the Charter. It seems to work under the impression that any heritage is part of the wider heritage of Australia, and while some heritage is specifically labeled as “indigenous”, they are still included as a part of a whole, and not really given much special deliberation. The Charter does refer to other documents that should be used when interacting with indigenous heritage, but the discourse discussed does not really focus on anything but the cultural significance, leaving other aspects of participation and control on the backburner. Participation is not considered an issue, and is given very little thought. In the texts, indigenous peoples as custodians are assigned a passive role: the power to participate is given to them through the heritage experts. On the other hand, the Charter and its Practice Note are aimed at “practitioners”, which likely refers to heritage experts but do not exclude the indigenous peoples that have gotten a formal training and act as practitioners when working with heritage. This still pays heed to the AHD, where power is delegated through experts and higher sectors of management.

This somewhat archaic approach could also explain why neither of the Burra Charter texts directly refer to the control (or lack thereof) that indigenous peoples have over their heritage. This does not necessarily mean that indigenous peoples lack control when it comes to their heritage in Australia as is evident for example in the concept of Indigenous Protected Areas<sup>188</sup>, but in the case of the often praised Burra Charter it is not really taken into account, making indigenous peoples seemingly subordinate to the official or more authoritative heritage sector, a notion which also makes an appearance in the Statement. At the same time, The Charter does encourage the use of all skills that may contribute to the care of the place, leaving in the possibility of including custodians who may not be trained in the matter. This aspect is further inspected later in the thesis.

Participation discourse refers to the active contribution to the conservation, management and overall concern over indigenous heritage site and assumes the involvement of multiple parties. Despite the discourse appearing weaker than its control counterpart, it seems to be more capable of ensuring that indigenous peoples possess power with regards to their heritage, but only when they are allowed active involvement in the heritage processes. The way the discourse is presented here shows participation as being ultimately controlled by higher scales of heritage, by the practitioners and site managers. The IUCN Guidelines seem willing to allow participation without specific terms, seeing it as a potential way of allocating power to indigenous peoples, but it is dependent on the site managers. The Burra Charter’s idea of participation is very narrow compared to that of the IUCN

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<sup>188</sup> Indigenous Protected Areas *s.a.*.

Guidelines, as it focuses primarily on the assessment of significance and appears solely in conjunction with consultation, though more active forms of management and conservation are alluded to under certain conditions.

### **4.3 Control over Knowledge**

The section on indigenous peoples having control over traditional and otherwise sensitive knowledge appears to mix up the discourses of control and sensitivity, as it both refers to the power the indigenous peoples possess in this matter as well as the expectations of heritage practitioners to follow this guidance. To some extent, control over knowledge can be considered the ultimate form of control, as the specific information about the site, including location, may be considered too sensitive to share among outsiders. Theoretically, it is something that cannot be forced to be revealed without the explicit consent of the custodians. The way the discourse is presented does indicate how crucial this aspect of control is considered among the heritage practitioners.

“Guideline 2.3 Respect confidentiality: Ensure that pressure is not exerted on custodians to reveal the location or other information about sacred natural sites and, whenever requested, establish mechanisms to safeguard confidential information shared with protected area agencies.” (IUCN 2008, 22.)

“While the identification of sacred natural sites within protected areas is useful for protected area management, no pressure should be exerted on local communities to reveal the location of their sacred natural sites, nor the details of their cultural values, practices, history or use.” (IUCN 2008, 37.)

The Guidelines are quite uniform when it comes to the knowledge possessed by indigenous peoples about sacred sites, making it the single aspect that indigenous people are deemed to have absolute control over. Whether it concerns the place’s location, its special features or the traditional management techniques or traditions related to it, the Guidelines do not put the onus on custodians to reveal anything they are not comfortable with. Any information that may be revealed confidentially is demanded to be kept secure and secret from the public when requested. The text has a mix of strong and weak obligation, visible in the imperative clauses and the deontic modalities, but due to the subject matter it reads more as a guideline for practitioners to find respectful approaches when interacting with custodians. While the hidden information is something that could be considered beneficial for the protection of the site at large, in this, the attitude seems to be that respecting the custodian’s right to their intellectual property is preferred above that.

“Guideline 4.6 Inventories: Subject to the free, prior and informed consent of custodians, especially of vulnerable sites and consistent with the need for secrecy in specific cases, carry out regional, national and international inventories of sacred natural sites and support the inclusion of relevant information in the UN World Database on Protected Areas. Develop mechanisms for safeguarding information intended for limited distribution.” (IUCN 2008, 24.)

As with the rest of the document, the custodians do not appear as active social actors, despite their active participation clearly required. In this sense, although the custodians are not assigned an active role they nonetheless hold the power. The passive form of the sentences can also be seen to be inclusive of a wider swath of people, making it more clear that the guidelines are indeed addressed to multiple parties, including owners of sites and national governments. The text here also refers to the FPIC, meaning that even in the cases when a location of the SNS is known among practitioners and managers, it cannot be added to a national or global list without the explicit permission of the custodians, providing them with another layer of influence concerning their control over knowledge.

“1 Assess for the presence of sacred sites in the protected area. Find out if any sacred natural sites exist in the protected area. These may be well known or protected area staff may not be aware that they exist. It is not always necessary or appropriate for park managers to know exactly where the sites are located, but to know that they exist.” (IUCN 2008, 27.)

The document states that it “is not always necessary or appropriate” for the park managers to know where a site may be located, as long as they know that it exists. This primarily concerns sites located within officially protected areas. This way the custodians can keep absolute control over their site matters, as not knowing the location will both force the managers to approach the protection of the wider protected area more cautiously while ensuring that the power to act stays with the custodians. It therefore inadvertently supports community participation and shifts the power to the scale of local, since no action can be taken at the site unless conducted by the custodians themselves.

It is still not purely a power shift, nor does it entirely avoid the traditional government model advocated by the AHD, because the SNS will still be located within the confines of a larger protected area, subjecting it to any policies that may affect the protected area. This can include restricting access or certain actions, essentially stripping the power custodians may have possessed prior to the sites introduction in the protected area. The ultimate power still lies at the higher scale, which is also visible in the choice to include the word “always”, indicating that there are cases when managers must be given this information. This may be yet another allusion to the way different national legislations approach the management of indigenous sites differently, and perhaps an attempt to appeal to the site managers that protection may be offered without knowing much about the site.

“The goal should be to be clear about the location and extent of all places of cultural significance. Further, the practitioner should be specific about how cultural significance is embodied at a place while remaining responsive to the wishes of some Indigenous people to control knowledge about some kinds of places for cultural reasons.” (The Burra Charter Practice Note 2013, 3–4.)

“Issue: Indigenous cultural protocols may limit the information that can be shared and used in the assessment of cultural significance. *Be sensitive to Indigenous cultural protocols concerning the sharing of*

*information*. Guidance: Some Indigenous social relations are governed by rules about the sharing of cultural knowledge that can limit the nature and amount of information that can be shared with a practitioner engaged in assessments of cultural significance and policy development. Assessments of cultural significance, and the development of policy, should be based on comprehensive research, which requires the sharing of knowledge between the participants in the process.... However, people from some Indigenous backgrounds may consider that relevant information about a place should only be disclosed to people of a particular gender, age, level of initiation, or cultural background. Their desire to manage the disclosure of culturally sensitive information should be respected.” (The Burra Charter Practice Note 2013, 4–5, emphasis original.)

“The same consideration may be relevant to how the location of a place is identified in an assessment of cultural significance (see Article 9 of the *Burra Charter*). There are often sound reasons that some Indigenous people seek to protect information about a place from wide public dissemination. These include physical security, a desire to restrict access, cultural sensitivity or to protect the place from vandalism. This issue can be addressed in a variety of ways, including the preparation of a confidential assessment, or the use of only general information which is not sensitive in the assessment.” (The Burra Charter Practice Note 2013, 5, emphasis original.)

In terms of control, the Burra Charter and its Practice Note acknowledge that certain indigenous peoples have the desire to control the knowledge related to their sacred sites. Both in terms of the practitioner’s responsibility to study and find information about the heritage place as well as the requirement to respect indigenous peoples’ wish to keep information hidden, the obligation is only moderate, as indicated by the modal verb “should”. This undermines the intent, which is further weakened by other aspects of the text, specifically the Practice Note, where the writing seems to contradict itself on whether or not indigenous peoples are allowed to keep certain information hidden away from anyone, and whether this information is even required at all.

“26.1 Work on a *place* should be preceded by studies to understand the place which should include analysis of physical, documentary, oral and other evidence, drawing on appropriate knowledge, skills and disciplines.” (The Burra Charter 2013, 8, emphasis original.)

Any work on the place “should be preceded by studies... which should include analysis of” any evidence, as long as it is “drawing on appropriate knowledge, skills and disciplines”. This indicates that the studies are likely conducted by heritage practitioners but rely on the information of the custodians. Delving into the Practice Note, the practitioner should be aware of the location and any information of the place under scrutiny, while “remaining responsive” to indigenous peoples’ wishes about their knowledge. It still puts the emphasis on knowing everything there is to know about the place. Despite this emphasis on the importance of sharing information, the clauses following the ones focused on the sharing do recommend respecting indigenous peoples’ wishes on the matter. Nowhere in the texts does the Charter mention FPIC, making the requests of respect less impactful.

Considering that information is something that cannot easily be extracted without consent, the bigger danger here is perhaps sharing culturally sensitive information, mainly the location, and making it accessible to a wider audience against the wishes of indigenous peoples, but the text does explore options to avoid this outcome.

While the texts seem to speak about both knowledge hidden from the public view and knowledge hidden from the practitioners, it seems to be more agreeable on the first, as a certain amount of knowledge is called for so that heritage practitioners may participate, an aspect which Burra Charter heavily emphasizes. Therefore the contradictions are likely due to the Charter's emphasis on expert inclusion. At the same time, inclusion of culturally sensitive information on a general level may in fact be a benefit. In Uluru-Kata Tjuta National Park, there exist many sacred and otherwise sensitive areas. In an effort to make sure these sites are properly respected, the Park has published a guide on photography, elaborating areas where photography or filming is not allowed, and which aspects of the park should not be captured on film.<sup>189</sup> While it reveals places considered sensitive, and thus subjects them to potential harm, it also ensures that people do not accidentally offend them.

“Indigenous communities need to have control over information about their heritage. There may be instances where Indigenous communities do not want information about their cultural heritage to be generally available.” (Australia ICOMOS Statement 2001.)

The Statement takes a seemingly stronger stance on the topic, declaring that indigenous peoples “need to have control over information about their heritage”. The clause does not necessarily indicate that this need for control should be entertained by heritage practitioners as there is no request present. It acts to inform that the control over heritage information is a necessity for the indigenous peoples and that there are some who do not want that information available, a probability which should be taken into account in practice. The official scales of heritage clearly value knowledge as something essential of heritage practice, and therefore it is no wonder that there is an underlying desire to uncover every aspect of information available on any given heritage object or practice. It can also assist in the later stages of heritage management, where conservation or other such actions may become relevant. This view, while muted, is also visible in the texts of Australia ICOMOS.

The discourse on control over knowledge is the single discourse present in the thesis where the power is almost fully possessed by indigenous peoples, due to the nature of the discourse being completely dependent on their will. The core feature of the discourse is that the traditional or otherwise sensitive knowledge and its distribution should be controlled by the indigenous peoples to

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<sup>189</sup> Photography, *s.a.*.

whom the knowledge is attributed. The discourse is more strongly supported in the Guidelines, in which indigenous peoples are not pressured in any way to reveal information to practitioners or the general public, simultaneously allowing indigenous peoples more overall control. In the Australia ICOMOS texts, the existence of the discourse, that indigenous peoples wish to keep certain information secret, is acknowledged. However, especially the Charter texts differ from the Guidelines in that they seem to put special emphasis on the importance of heritage practitioners being aware of everything concerning the heritage site, while only somewhat consenting to secrecy requests.

#### **4.4 Sensitivity to the Cultural Norms and Rights**

The sensitivity discourse can be seen in the discussions concerning indigenous and the sacred. Both are themes which require a conscious approach that takes into account the special qualities and restrictions they may possess. The discourse appears in three different contexts. First in the culturally appropriate approach to interacting with indigenous peoples (as custodians), and the sacred sites, especially concerning managing and management. Secondly, in the secrecy and restrictions required by some sites and custodians, also visible in the control over knowledge-discourse, and therefore only briefly analyzed here. Thirdly, in that of the respect requested when introducing sacred sites to the public, and general concerns about sensitivity and tourism. Somewhat surprisingly the approaches “required” by the sacred sites themselves, are less present here, as respect is mostly contextualized in the relations with custodians.

“Identifying and interacting with custodians of sacred natural sites often requires great sensitivity, respect and trust building.” (IUCN 2008, 7.)

“Sacred natural sites should be officially recognised in culturally appropriate and sensitive ways that enhance the protection of these sites and respect and affirm the rights of their traditional custodians.” (IUCN 2008, 32.)

“A new protected area can be an appropriate tool for safeguarding sacred natural sites if it is created in a sensitive and respectful way.” (IUCN 2008, 33.)

“Ideally, marginalized and/or minority members of the community or communities will be included. This can present a challenge, particularly when dominant structures prevent participation based on gender or ethnicity. At the same time, there is the need to be respectful of local cultural norms, consistent with basic human rights.” (IUCN 2008, 45.)

The Guidelines recognize that a site may warrant a special approach due to the values attributed to it, noting that special care is also required when interacting with the custodians. The site may be culturally sensitive for various reasons that contribute to its sacredness, but sacred does not necessarily warrant a special approach. Although the text does not specify exactly what this approach entails, the consensus seems to be that even if the one following the guidelines is an

outsider and therefore does not share the views of the custodians, these views must be respected and followed when it comes to the treatment of the site. One needs to respect the cultural context of the custodians as well as their rights when interacting with them.

One noticeable thing is that the text is less imperative when it comes to requiring respect, when compared to the ways that control and participation has been spoken about, even more so when compared to the knowledge holding of the custodians. There is no obligation to follow this code of conduct, as seen in the use of declarative clauses. This makes it more of a statement of fact, that for best results a sensitive and respectful approach should be used, but not necessarily that this approach is automatically given or assumed. Presupposed in the text is the idea that, for the most part, the power to control these things are outside the hands of custodians, locked on scales that may or may not understand the specific nature of the sacred sites of local and indigenous custodians.

“Considerable caution, however, needs to be exercised when considering the protection of sacred sites through national protected area legislation. Very few countries have developed protected area legislation that recognizes sacred natural sites and their custodians in sensitive and appropriate ways. Many protected area agencies follow the protectionist model with the use of military-style enforcement methods. Unsuitable laws and inappropriate application could, as has occurred in the past, disempower minorities.” (IUCN 2008, 33.)

Some urgency is visible in other parts, such as in those where the national policies are mentioned. The language becomes more forceful and concerned when it discusses the way many states have not developed policies and laws that incite conservationists to approach sites and their custodians in a sensitive manner. Although the text does not indicate any attempt to influence a change, it is clear that this type of management model is considered negative. Although not visible here, the paragraph continues that when negotiating government involvement in the site recognition and protection, custodians should be involved as well and all decisions should be done with the FPIC of the custodians, invoking the control discourse. Although the modality of that discourse indicates a strong necessity, though not outright obligation, this is not reflected in the wider sensitivity discourse.

In this sense then, the Guidelines seem to speculate that to ensure that truly respectable approach takes place, custodians should be involved. At the same time, they suggest the possibility that if custodians lack the power to get involved their heritage may also not be respected. This is supported by the choice of words that such management models based on unfitting laws could “disempower minorities”, which indicates that respectful policies and management or lack thereof is directly related to the amount of authority custodians are seen to possess. The cultural sensitivity discourse then offers an interesting case from the perspective of power, as it actively works in two directions. Depending on the state in question, requests for specific behavior and culturally sensitive

approaches may also act to disempower minorities, when for example discussed within a purely scientific discourse. In that kind of context, the discourse, as it stems from mostly a place of belief, is a topic which is contested and easily ignored in the more official scales. This is partially why the Guidelines were written in the first place. All too often in the official documents concerning natural sites and natural heritage, and especially those of indigenous peoples, the discourses not rooted in the measurable aspects may be left out, because their contribution is not noticed.

From an indigenous point of view, the calls for sensitivity and respect likely stem from the poor treatment of indigenous peoples and their lands, falling back to the issues addressed in the UNDRIP. These issues include prohibiting the expression and practice of cultural traditions, assimilation, and confiscation of traditional lands. By articulating the discourse, the Guidelines showcase that they attempt to position themselves within the framework provided by UNDRIP, strengthening the discourse in the wider field of heritage practice. The proposed attitude may have an effect of “othering” the custodians in the minds of some people, who may not understand the custodian standpoint. Respect is not a universally definable term, meaning that the respect provided by, for example site managers, may not match that requested by the custodians, which may lead to unintended disrespect. It is also stated that culturally sensitive approach is not necessarily always respectful to single individuals, who might be discriminated against within their communities. This makes the discourse of sensitivity somewhat contested, since it carries with it both positive and negative implications. If approaching heritage in a culturally sensitive way means acting against basic human rights, should this be condoned or not?

“For indigenous and local communities certain natural areas have provided the focus for many of their spiritual traditions and are recognised as sacred. The special nature of these places often demands that there be little or no human impact.” (IUCN 2008, 30.)

“By the same token, some sacred natural sites demand restricted access and little or no visitation. Mechanisms should be put in place to control visitation and access in accordance with the wishes of custodians.” (IUCN 2008, 58.)

The Guidelines also bring up the sensitivity discourse with regards to the sacred sites themselves. While this is related to the rules put in place by the custodians, it is evident that these rules have been made precisely due to the special nature of the site. SNS seem to overall carry more agency within the clauses of this discourse than do for example the custodians, because SNS appears more often as an actor, being placed in the role of doing the action, like demanding restricted access. This has an effect of giving the sites themselves influence, making them appear more akin to humans; personifying them. This is likely a poorly structured sentence and not meant to speak in *emic* terms, considering that for the most part, the Guidelines speak from the outside, as an observer. Overall



both the SNS and custodians are more often referred to in a passive voice, where both are targets to an unspecified agent's actions. The text appears to be value-free when discussing the discourse, and by giving agency to the sacred sites, presents the special requirements as uncontested facts.

"Guideline 5.3 Dialogue and respect: Encourage ongoing dialogue among the relevant spiritual traditions, community leaders and recreational users to control inappropriate use of sacred natural sites through both protected area regulations and public education programmes that promote respect for diverse cultural values." (IUCN 2008, 24.)

"Disturbance of practitioners can disrupt important ceremonies or years of spiritual endeavour. Due to increasing recreational pressures on protected areas and efforts to increase public access to nature, friction may arise between the privacy needs of custodians and the perceived freedoms of other visitors. This can be exacerbated where there is limited respect for the culture of the custodians. Therefore, policies should be enacted that allow for the periodic closure of areas within and around sacred natural sites to allow for privacy in the conduct of ceremonies at the site." (IUCN 2008, 57.)

The sensitivity discourse also includes the sensitivities required when the SNS is joined with an officially protected area, especially when considering the potential interactions of the tourist sector and the general public with these sites. This aspect occupies a small portion of the discourse, and emphasizes the role of dialogue in managing this. Not all officially protected areas become available to tourists, but many do. The issues that this may cause have been already alluded to earlier in the thesis, ranging from limiting access of the custodians in an effort to gain more economical benefits to the issues of behavioral violations and sustainability, where the site may not be able to withstand such traffic. Although the text attempts to cover the topic in a thorough enough way that these shortcomings may be able to be avoided, the potential downfalls are actually not elaborated on in the Guidelines. The role of dialogue and cooperation among stakeholders, as well as general education of the specific features of the site is emphasized, focusing on the prevention of issues. Restrictions to the access of outsiders to the site, or occasional closures, may also be warranted.

"Guideline 2.4 Demarcate or conceal: Where appropriate and to enhance protection, either clearly demarcate specific sacred natural sites, or alternatively, to respect the need for secrecy, locate sacred natural sites within larger strictly protected zones so exact locations remain confidential." (IUCN 2008, 22.)

The right to keep information about the sites secret from the public also appears in the sensitivity discourse in the context of protecting the sites from public view and through it, any kind of disrespectful behavior, as well as finding most appropriate methods of managing these sites. It still ties together with the issue of control, because the Guidelines enforce the concept of secrecy and for the most part base it on the position of the custodians. Here too, the SNS also make an appearance

as actors with agency, further confirming that the Guidelines do not contest any ideas concerning beliefs, presenting them as statements.

When does sacred stop being sacred? The Hawaii example of Mauna Kea and its multiple telescopes lies at the core of this question. The proponents of the new telescope have argued that adding another structure on the mountain does not disrupt the fabric more, making the project acceptable in their eyes. To them, the mountain has become less sacred than it was before. For the opponents, the opposite stands: the mountain has not lost its sacredness, but because the structures on it do not respect its spiritual significance, it is disrupted, but this disruption can be mended. This happens by treating it with respect and removing the existing telescopes. It also brings to mind the following: when the site is no longer in active spiritual use, do the rules applying to it, its special features, gradually disappear? For outsiders, such as conservationists and lawmakers this might be the case, but for indigenous peoples, the site may retain its sacredness, keeping the rules in force.

“The overriding objective for heritage professionals is to prepare an assessment of significance and a conservation policy that are expert, credible and effective. It is important that practitioners do not approach Indigenous heritage with preconceptions about how Indigenous people may value a place. They should listen carefully to the views of Indigenous people and seek to capture those views in the assessment of significance without bias.” (The Burra Charter Practice Note 2013, 3.)

The Burra Charter and its Practice Note make fewer mentions of this topic than the Guidelines bring to the forefront yet their approach is more detailed. As focused as it is on the value of places, it does not bring attention to specific types of sites which may require a culturally sensitive approach nor does it give consideration to potentially strained relationships that for example different stakeholders may have with each other, which is especially interesting considering the past mistakes that were made with indigenous heritage.<sup>190</sup> This makes the Charter and what it tells about the Australian heritage sector seem incredibly equal, in terms of the influence and authority different stakeholders possess, a picture which is not yet representative of the real situation.

“Article 25. Interpretation The *cultural significance* of many *places* is not readily apparent, and should be explained by *interpretation*. Interpretation should enhance understanding and engagement, and be culturally appropriate. In some circumstances any form of interpretation may be culturally inappropriate.” (The Burra Charter 2013, 8, emphasis original.)

Some of the actions that heritage practitioners are authorized to take do however note the aspect of culturally appropriate practices, which is most directly visible in the section concerning

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<sup>190</sup> See for example: History of Uluru-Kata Tjuta National Park *s.a.*.

interpretation<sup>191</sup>. Article 25 calls for the interpretation to be “culturally appropriate” and the explanatory notes point out that sometimes “any form of interpretation” may be inappropriate. This refers mostly to the actions taken by heritage practitioners, seeing as they are often the ones conducting the interpretation, and confirms that the engagement that practitioners have with the site should happen respecting the views and wishes of the custodians who traditionally own them. Again, the modality is average at best and points more towards a declaration than an outright direction or a rule. Interpretation being a nominalization of the verb interpret, clearly normalizes it within the context of the Charter, while also hiding the agent, presenting it as an essential aspect of cultural significance. Interestingly, the last clause concerning inappropriateness of interpretation also acts as a statement, as there is no condition present in Article 25 to not go through with the interpretation if it is found inappropriate. This clause is found in the explanatory notes, but even if it was part of the actual article it would still indicate that the interpretation is something unavoidable. Within the Burra Charter then, the sensitivity discourse is present, but averted.

“Guidance: Insofar as cultural sensitivities allow, practitioners should avoid generalisations when identifying and assessing Indigenous heritage places.” (The Burra Charter Practice Note 2013, 3.)

The understanding of the need for respect and sensitivity is also visible in the proposed attitude that generalizations are considered negative unless the situation calls for culturally sensitive approach, should the indigenous custodians for example wish to retain some information secret. This means that deviation from the standard set by the Charter is allowed if needed. This need is directly dependent on the “cultural sensitivities”, backgrounding the indigenous peoples from the action and hiding their presence. It is not something determined by indigenous peoples, but rather by a concept which exists regardless of them, and something where the responsibility and control of the interaction is entirely attributed to the practitioners. Technically this also speaks for other type of respect, avoiding “generalizations” when assessing places, approaching each place as its own entity and not as a “bulk” indigenous heritage where the same rules apply.

“The Indigenous cultural heritage significance can only be determined by the Indigenous communities themselves.” (Australia ICOMOS Statement 2001.)

To some extent, the respect and cultural sensitivity seem to be presupposed when working on indigenous heritage, as is visible in the Practice Note. They are not stated as aspects that should be taken into account, but appear as a condition for the engagement with the indigenous places in the first place. This may be due to the Charters emphasis on the cultural significance, and the idea, also

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<sup>191</sup> Interpretation means “all the ways of presenting the cultural significance of a place” and can be “a combination of treatment of the fabric (e.g. maintenance, restoration, reconstruction); the use of and activities at the place; and the use of introduced explanatory material”. The Burra Charter 2013, 3.

presented in the Statement, that the cultural significance is only able to be determined by the indigenous peoples who have connections to these sites. The clause is declarative and shows that the Statement assumes this as a fact, which likely underpins the notions that the Charter and its Practice Note have on the topic. It does not leave any chance for opposite reality to be true, granting indigenous peoples an access to participate in the Burra Charter process and with it, the general heritage process, but only up to the point of significance assessment.

The text acts in the *etic* realm, where it does not seem to inhabit or even repeat the culturally specific views that indigenous peoples have about these sites. It is interesting then, that in Australia the culturally sensitive approach, with regards to tourism, access and developing projects, has slowly become more normalized, yet this change does not seem to be reflected in the Charter or its Practice Note. This may be because they are offered automatic protection in federal and State laws, although different State laws contain different statutes.<sup>192</sup> As this protection is presupposed, and technically expected to ascertain culturally sensitive approaches, it may be a reason to not pay attention to it within the heritage documents. However, since the Burra Charter is considered an exemplary specimen of heritage document, and may be used as an example in countries where the heritage laws are not nearly as considerate, it reproduces a discourse where the indigenous heritage, and by extension indigenous peoples, may not be treated in the required manner.

Even in Australia, the rights provided by laws may not be sufficient, making the discourse on sensitivity an important one to acknowledge and reinforce. An example can be found in the case of climbing Uluru, the sacred mountain of the Anangu people, who have requested that the mountain is not climbed. Only recently, in 2017, through official decision, in accordance with the wishes of the Anangu, did they decide to ban climbing. This ban will come in force in October 26<sup>th</sup> 2019, two years after the decision was made. The closure has been discussed for a long time, but there were certain conditions for its actualization, which means that respecting the cultural sensitivities of the Anangu, their perspective was not the sole reason for it, if at all. It is likely not a coincidence, that the decision was made by a Board of Management whose majority consists of Aboriginal traditional owners, as the decision still attained criticism from non-Aboriginal people.<sup>193</sup>

“24.2 Significant *meanings*, including spiritual values, of a *place* should be respected. Opportunities for the continuation or revival of these meanings should be investigated and implemented.” (The Burra Charter 2013, 7, emphasis original.)

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<sup>192</sup> Sacred and heritage sites *s.a.*.

<sup>193</sup> Uluru climb to close 2017.

While not binding, 24.2 is a direct recommendation on the part of the Charter to respect the “significant meanings, including spiritual values” of a place. This indicates that regardless of the type of value, the place which has been deemed to possess significance should be respected; or rather it is the value that should be respected. The place as an entity is not set as the target, but rather the values that inhabit it. To the Burra Charter, it is the values that make something worth protecting, so it is logical that it is the values that are also at the forefront of the sensitivity discussion. It makes a special point to mention the spiritual values<sup>194</sup> which is something that the Charter or its Practice Note on indigenous peoples does not really elaborate on within the proper text. It then includes the aspects of sacredness and the feelings people may get when visiting these places. It seems that the places take the foreground, being both the target and the source of meaning-making interactions within the wider heritage practice promoted by ICOMOS Australia. The Charter generally seems to background most of the peoples from its main text, save for practitioners, creating an impression that the places exist solely in the context of the heritage sector.

“32.1 The records associated with the *conservation* of a *place* should be placed in a permanent archive and made publicly available, subject to requirements of security and privacy, and where this is culturally appropriate.” (The Burra Charter 2013, 9, emphasis original.)

As with the Guidelines, the secrecy aspect of sensitivity discourse is also present. The concept of secrecy is not attributed to any particular party, but seems to exist on its own. These are written in a passive way. This not only backgrounds custodians but by doing so also effectively removes them from the discussion, decreasing the relevance of them and their thoughts. It also approaches the revealing of the information as a default state, emphasizing the Charter’s preference for keeping information available to all interested parties.

The sensitivity discourse is concerned with an all around culturally sensitive and respectful approach to indigenous sacred heritage, and assumes this to be a necessity. Its core elements consist of the responsibility of heritage practitioners and site managers to keep certain information secure, and culturally appropriate interactions with the sites, whether by heritage practitioners, managers or tourists. What is considered appropriate varies depending on the target site and group, making the discourse malleable. It also ties tightly with the wider discourse of power, more specifically that of control, as given respect is considered to partially depend on the amount of power possessed by the custodians. The discourse assumes the involvement of indigenous peoples, because true sensitivity can only be achieved in consultation with indigenous peoples. None of the texts contest this

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<sup>194</sup> The spiritual values are defined as “The intangible values and meanings embodied in or evoked by a place which give it importance in the spiritual identity or the traditional knowledge, art or practices of a cultural group.” Understanding and assessing cultural significance 2013, 4.

discourse, and in all of them the same sub-discourses can be found. In the Guidelines, the discourse is attributed as much to the sites as it is to their custodians, and it tries to present the indigenous view above the managerial view. In the Australia ICOMOS texts on the other hand, it is not the site but the significance attributed to the site that require a sensitive approach. The discourse is also not attributed to indigenous peoples, but exists as a condition for the interaction to happen between indigenous peoples and heritage practitioners.

#### **4.5 Access and Use**

UNDRIP calls for the indigenous peoples' right to practice their traditions and customs as well as to have access to their religious and cultural sites.<sup>195</sup> The latter is often fundamentally important for the upholding of traditions because they are so strongly linked to the land. For certain natural sites and heritage areas, this access can be limited in an attempt to protect these places from what is seen as deteriorating usage or due to its physically sensitive state. This in turn can add to the deterioration of indigenous peoples' traditions and customs, as they are barred from the area.

"Guideline 5.1 Access and use: Develop appropriate policies and practices that respect traditional custodian access and use, where sacred natural sites fall within formal protected areas." (IUCN 2008, 24.)

"Policies and practices are needed to support the access of traditional custodians to sacred natural sites... Of particular importance is access to sites for performance of ceremonies and maintenance of individual sites. In some cases, the custodians of sacred natural sites that have been incorporated into protected areas have had to enter unseen or illegally to avoid protected area patrols while visiting their sites. In other cases, custodians are expected to follow complex and often unrealistic permitting procedures.... In many protected areas that charge for visitor entrance, local community members enter for free or at significantly reduced rates. If not already considered, this option should be taken into account when custodians and practitioners seek to visit and use their sacred natural sites." (IUCN 2008, 57.)

Ensuring free access and use of the site for the custodians is presented as an important aspect for the management of the sacred natural sites, which is emphasized in the way it is presented in the text. As it is an aspect of the indigenous rights represented in the guideline section, it is written in imperative. The discourse of access is then directly dependent on the management and policies, which tie into the discourses of power, control and participation. The negative implications of denying access are brought up, and the text ties it directly to the unequal power relations and disempowerment of local communities. In this section, the scales of heritage appear inherently hierarchical, as the question of access is, in the case of officially protected sites, determined by people with power. If the custodian group lacks the power to dispute the denied access and use or if the financial incentive of tourism is valued above the wishes of the communities, it may be useful

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<sup>195</sup> United Nations Declaration on the Rights of Indigenous Peoples 2007, Article 11, Article 12.

that an entity, such as the IUCN, articulates the importance and the benefits of allowing the access rights to be realized.

The text positions itself on the side of the custodians, attempting to present the issues of access and use from a rights perspective. It shows these requirements as something that should be considered default practice, even stating that site managers should advocate changes to practices where these basic rights are not fulfilled. It also ties the discourse to that of sensitivity, stating that allowing access, while limiting other access, may be the only way to respect the cultural sensitivities of the communities. As the access to sites is a contested topic which frequently discussed in the news, it is no wonder that the stance of the text is so obvious, despite the generally descriptive language.

“Guideline 5.6 Cultural use: While ensuring that use is sustainable, do not impose unnecessary controls on the careful harvest or use of culturally significant animals and plants from within sacred natural sites. Base decisions on joint resources assessments and consensus decision making.” (IUCN 2008, 24.)

The Guidelines also refer to particular examples of when use should be approached from within the context of the cultural group in question. The most prominent example is the use of animals and plants. Because for IUCN the SNS exist largely for the better protection of nature and biodiversity with additional benefits for their custodian groups, allowing the cultural and religious use of animal and plant species is a huge concession. Every reference to this topic also calls for ensuring the sustainability of this use, and confirming that it must not affect the environment in a negative way. Despite these conditions, this particular aspect shows that IUCN puts a lot of emphasis on the cultural aspects of SNS, even if these aspects seemingly contradict the natural side of the sites.

“7.2 A *place* should have a *compatible use*. The policy should identify a use or combination of uses or constraints on uses that retain the cultural significance of the place. New use of a place ... where appropriate should provide for continuation of activities which contribute to the cultural significance of the place.” (The Burra Charter 2013, 4, emphasis original.)

“1.10 *Use* means the functions of a *place*, including the activities and traditional and customary practices that may occur at the place or are dependent on the place. Use includes for example cultural practices commonly associated with Indigenous peoples such as ceremonies, hunting and fishing, and fulfillment of traditional obligations. Exercising a right of access may be a use.” (The Burra Charter 2013, 2, emphasis original.)

The Burra Charter too seems to put a lot of emphasis on ensuring that the appropriate people have access to the sites and the right to use them for their cultural practices. There is one caveat: the access and use are only approved when they are seen to retain or contribute to the cultural significance of the place. Although the Charter specifies no criteria, creating this condition also creates a category of use which is not allowed, and by extension, moves the decision-making control

about the topic to the people assessing the significance, which are likely practitioners. This can be seen to advocate the sensitivity discourse, in that activities detrimental to the site conducted by outsiders would automatically be denied. This, however, still leaves a possibility that use not deemed to contribute to the significance, even if it is use by the traditional owners of the site, would be denied. Another caveat appears in 1.10, where right of access “may be” a use, which alone does not indicate when this is the case, nor does it indicate who makes the decisions on this topic.

As is visible throughout, focusing on the place and approaching everything through it seems to be a standard notion in the text. This is present here as well as access and use of a place, which contextualizes solely through its relevance to maintaining that place’s significance. The subjects in the use, like cultural practices, are only mentioned in relation to the use of indigenous peoples, but otherwise the practices seem to exist on their own accord. It is unclear why the actors in the use of the site have been so thoroughly excluded, considering that these actions are directly dependent on the people who may or may not conduct them. The discourse of access is enveloped in a wider question of land rights, which again refers back to the discourse of control.

The discourse of access and use, as acknowledged in the IUCN Guidelines and the ICOMOS Australia texts, both relate to another aspect of the discussion, which makes this discourse so essential. It can help support the continuation of traditions and thus contribute directly to the wellbeing of the site as well. As established, many of the indigenous cultural practices are intimately bound with the lands traditionally occupied by them. Losing access to this land, as has happened throughout the world, with indigenous peoples being put into reservations or otherwise moved from the traditional lands, can irrevocably disrupt these traditions, which is clearly a breach of indigenous rights. This disruption may cause forced modifications to the heritage or making it disappear altogether. In these cases the scale of local appears to possess most influence with regards to the well-being of the heritage.

The dual discourse of access and use contains within it the wider discussion related to the indigenous rights and through it, the power relations. The discourse sees free access for indigenous peoples to, and the use of, their sacred sites as something beneficial for both the site and the traditions of the custodians. It is not obligated, but rather considered something that should be standard practice. All analyzed documents are mostly in agreement on the importance of this discourse, but they have slightly different approaches in the way it is discussed. In the Guidelines, the discourse is something directly dependent on the authority that indigenous peoples possess with regards to their sites, linking it to every other discourse present in this thesis. The text presents the discourse in a positive light, even attempting to approach it from an indigenous point of view. The Burra Charter texts create conditions under which access and use are allowed, mainly related to maintaining the cultural



significance of the place, which somewhat limits the application of the discourse. The Charter texts also remove the agency of the indigenous peoples and approach access and use as its own entity, rather than an action dependent on the peoples conducting them.

#### **4.6 Management of Heritage and the Use of Traditional Knowledge**

The discourse of heritage management within the western world often follows that presented in the Venice Charter, the “management of change”, as well as the general conservation ethos, using techniques which often stem from the experts rather than custodians’ culture. This can also be referred to as the AHD, as it appears in the entirety of the heritage sector. While this is slowly changing, with culturally appropriate management methods being included in the practice, the management is still generally directed from above. The documents analyzed in this thesis seem to act within somewhat differing discourses in terms of caretaking of heritage, with varying degrees of conservation and involvement of traditional knowledge. Respecting the role of traditional knowledge of indigenous peoples is nowadays considered essential for ensuring the holistic approach to management. It has taken a stand next to the western practices as “best practices”, attempting to become acknowledged in the normalized heritage practice all over the world.

“Recognising the primacy of traditional custodians in managing their sites, it would be inappropriate for IUCN or UNESCO to provide management advice regarding sacred sites for which custodians have successfully cared for many generations.” (IUCN 2008, 3.)

“Sacred natural sites require an integrated research and management system. ... This management system will ideally be capable of understanding, and caring for, both the natural and the cultural space. In this vein, a holistic management scheme should be put into place.” (IUCN 2008, 49.)

“Protected areas are usually created to protect valued landscapes, wildlife and biological diversity. They are commonly based on Western scientific models that discriminate against local cultures and traditional knowledge. Sometimes people are even relocated to create new parks. Sacred natural sites, therefore, may not be on the agenda of the political and environmental agencies that establish the protected areas and develop management plans.” (IUCN 2008, 6.)

“There is now a better understanding of the importance of these institutions and the conservation community has been working with this knowledge to develop co-management options that recognise existing institutions and reflect common property arrangements.” (IUCN 2008, 66.)

In the very Preamble, the Guidelines sets its management model apart from that present in the AHD, showing that the management discourse is not necessarily set in stone. The text states that “it would be inappropriate ... to provide management advice” regarding sacred sites that have been “successfully” cared for generations by their custodians. The intent of the sentence is clear and creates expectations for how this discourse appears later in the text. Although it does not directly

state that no management advice will be offered, it is strongly implied that the site managers and heritage practitioners should not try to influence the systems used by custodians. Due to the way the sentence has been constructed, it does not necessarily exclude parties other than custodians from participating in the management nor give exclusive management rights to the custodians, but it shows that both IUCN and UNESCO understand that custodians often have the most thoroughly tested knowledge on how to best manage their sites. By naming the two organizations, the text is strongly attached to both nature protection and heritage sectors on a global scale, which might also give it visibility in the discussions surrounding the World Heritage Convention. This creates a stronger sense of unity between cultural and natural sectors of heritage management.

Furthermore, the text directly states that the Guidelines' purpose is to try and advocate a change from the protected area models based on ideas rooted in historically and scientifically constructed ideas into ones where the management models involve local people, essentially attempting to steer clear of the historically normalized models. The Guidelines are therefore part of a wider change going on in the heritage and nature protection field, where community participation and knowledge are given more space in the official heritage sector, perhaps one day making it into a standard practice.

To some extent, this rearranged discourse model does surface throughout the document. While management advice is not provided, management itself, as a concept, is strongly present and clearly considered necessary for the well-being of the sites. Although the text does positively bring up the role of Indigenous and Community Conserved Areas (ICCA)<sup>196</sup> in the protection of sites, there is still an underlying preference for officially recognized management. It appears in conjunction with protection, which is one of the central tenets of IUCN and UNESCO, to protect heritage, and therefore visible in the Guidelines as well. However, the typical duality of protection as conservation or preservation is barely visible, and only makes an appearance. The two are not automatically linked together as is often the case. Instead, the text gently presents an alternative, of local and custodian management models, which exist purely on the scale of local and provides management methods tailored to the specific sites as they only exist in the context of those sites. This also insinuates an approach which is spelled out elsewhere in the Guidelines: that protection of the sites should be adapted to each place separately, and should also factor in other potential variables, like time.

The condition for the incorporation of custodian management models in the management of the site is created and strongly commended. The text does not appear to completely forsake the typical

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<sup>196</sup> ICCAs are areas conserved by communities or indigenous peoples local to the site, with community effort and keeping the control over decision-making and management in the hands of the communities. They are not necessarily protected areas as per IUCN standards and are sometimes but not always recognized officially by national governments. ICCAs conserve both biological and cultural features of a place. See more at: ICCAs *s.a.*.

management promoted by AHD, instead emphasizing holistic models which incorporate many management types. This is to ensure that all aspects of the sites, from tangible, environmental to intangible cultural and spiritual, are sufficiently cared for. This can only take place if management includes both traditional knowledge holders, aka custodians, as well as experts in their fields. As will be seen in the value discourse, the Guidelines consider SNS to possess multiple equally significant values, of which all should clearly be acknowledged when considering the overall protection of the site. It is logical that the Guidelines considers the official protection of the site to be so important, considering that it is a global body intrinsically involved with the way the protection of the natural sites has been arranged internationally.

“Wherever possible, respect and support custodians’ own regulations regarding the management of sacred natural sites, reflecting these in protected area rules and policies as appropriate.” (IUCN 2008, 37.)

“With full respect to prior consent (guideline 3.1), confidentiality (guideline 2.3) and with the local custodians’ support and participation, a process can be undertaken to identify sacred sites within the protected area and establish the nature of their institutional management, governance structures and traditional regulations for management.” (IUCN 2008, 36.)

There are also aspects of the text that seem to prefer holistic systems where the official management acts as a base. “Wherever possible” creates a condition, where, if there is no outside force preventing it, the custodians way of management should be factored in when considering the official management systems of the site. However, it is not necessary that the custodian ways should be incorporated, as it is dependable on when it is appropriate or fitting, a prerequisite which is unexplained. This somewhat strips power from the custodians, who, despite the calls for consent and participation, are not always consulted when adding a site into an officially protected area. The Guidelines clearly propose the model based on FPIC as a standard instead.

“Principle 2 Integrate sacred natural sites located in protected areas into planning processes and management programmes.” (IUCN 2008, 22.)

“Principle 5 Protect sacred natural sites while providing appropriate management access and use.” (IUCN 2008, 24.)

The mentions of the management aspect in the actual guidelines section slightly shifts the discourse as it is presented elsewhere in the text, as it almost completely ignores the custodian management side and simply refers to the importance of joining SNS to officially protected areas. However, Principle 5 mends this by inserting a remark “provide appropriate management access and use” as one of the major principles on which the Guidelines are based. Even here, the choice of the word “appropriate” creates possible situations where custodians’ rights are bypassed. While it is not as

clearly expressed elsewhere, the management discourse ties together with the power discourse, thus making itself present through the sections on control and participation.

“It is important, to the extent possible, to recognise and endorse the traditional rules of custodians regarding the management of sacred natural sites (guidelines 2.2 and 6.4).” (IUCN 2008, 32.)

“Understanding current management institutions: Sacred natural sites have a wide range of traditional institutional arrangements governing them. These are not always understood and recognised by protected area managers and other government agencies. ... A better understanding of the institutional arrangements of sacred natural sites and the linking with newer management structures will support improved care and management.” (IUCN 2008, 66.)

“Both science and traditional knowledge should be fully utilized for the conservation and management of sacred natural sites. Integrated management schemes should call upon the use of natural and social sciences as well as the use of traditional knowledge.” (IUCN 2008, 51.)

“Guideline 4.3 Traditional knowledge: Consistent with article 8(j) of the Convention on Biological Diversity (CBD), support the respect, preservation, maintenance and use of the traditional knowledge, innovations and practices of indigenous and local communities specifically regarding sacred natural sites.” (IUCN 2008, 23.)

This is further confirmed in the sections concerning the use of traditional knowledge and traditional management systems, which appear in a solely positive light. As can be seen for example in the guideline 4.3, the focus of the Guidelines is clear: to bring forth the traditional management and practices as a potent component of protecting sacred natural sites. The end goal here is confirming the sustainability of these sites, not necessarily for the benefit of the public, but for the increased biodiversity of the world. This does not exclude scientific, expert-driven knowledge, but tries to boost a creation of a system where both approaches are included. In the Guidelines, the traditional knowledge appears in two ways: the traditional management models that custodians may possess for managing their sacred sites and the traditional knowledge and the techniques contained within.

The intertextual references to the Convention on Biological Diversity mean that the Guidelines wish to present themselves as a part of a newer discourse on management where the utilization of the methods and knowledge of local communities, with their consent and participation, are sanctioned. The scales of local and global are constantly interacting, and sometimes the heritage practices of the local scale can become globally accepted and eventually nationally realized. They do not necessarily become more powerful, considering that the local level practices may not even acknowledge the existence of the global ones, but their scope can change. It likely has no effect on the local scale itself, unless the higher institutional scales have been pushing their management systems to be implemented on the lower scale. To some extent it can be seen to benefit the global scale, because it

can shake up the stale structures of the global heritage practice. It is not only the territorial scales where this change takes place, it is also the social and cultural ones. Changes in management systems can have an effect in shifting unofficial into official and giving more power to the custodians and local communities. The text here, with its attempt to marry the typically Western, scientific management models to the traditional ones, follows a more critical stance on heritage but does not entirely mitigate the hierarchical power relations present.

“Article 2. Conservation and management

2.1 *Places of cultural significance* should be conserved.

2.2 The aim of *conservation* is to retain the *cultural significance* of a *place*.

2.3 *Conservation* is an integral part of good management of *places of cultural significance*.

2.4 *Places of cultural significance* should be safeguarded and not put at risk or left in a vulnerable state.”

(The Burra Charter 2013, 3, emphasis original.)

“Conservation normally seeks to slow down deterioration unless the significance of the place dictates otherwise. There may be circumstances where no action is required to achieve conservation.” (The Burra Charter 2013, 6.)

“15.1 Change may be necessary to retain *cultural significance*, but is undesirable where it reduces cultural significance. The amount of change to a *place* and its *use* should be guided by the *cultural significance* of the place and its appropriate *interpretation*.” (The Burra Charter 2013, 5, emphasis original.)

“26.2 Written statements of *cultural significance* and policy for the *place* should be prepared, justified and accompanied by supporting evidence. The statements of significance and policy should be incorporated into a management plan for the place.” (The Burra Charter 2013, 8, emphasis original.)

“These places of cultural significance must be conserved for present and future generations in accordance with the principle of inter-generational equity.” (The Burra Charter 2013, 1.)

In the Burra Charter, the management of heritage is encapsulated in retaining its cultural significance, a sentiment repeated throughout the Charter. The use of the highly modalized “must” indicates that the act of conserving must take place for the benefit of people according to the intergenerational equity<sup>197</sup>. This leaves out the alternative, not conserving, as well as justifies the reason behind it, by stating as a fact that future generations have a right to one day experience the heritage as it is today. It is used as a form of legitimization which also makes an appearance for example in the Preamble to the Venice Charter, showing that the Burra Charter’s roots and its current purposes are still aligned with the Venice Charter and the AHD.<sup>198</sup> Even after revisions, the

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<sup>197</sup> Equity and fairness between generations, both current and future ones, to ensure the sustainability, especially concerning the conservation and use of nature, where each generation is seen to hold Earth in common, see: Weiss 1994, 20.

<sup>198</sup> International Charter for the Conservation and Restoration of Monuments and Sites (The Venice Charter 1964) 1964.

discourses favoring the tangibility of heritage, importance of authenticity and the authority of the experts push through. Considering that ICOMOS has contributed for the development of AHD, its presence is expected.

Since management equals conserving the place in such a state that no change comes to the cultural significance, it mainly reverberates through the AHD and its approach to conservation. It slightly differs, in that conservation is related to the cultural significance, an intangible fabric, of a place, rather than just its tangible aspects, although it directly admits that halting deterioration is preferable unless dictated otherwise by the cultural significance. The concept of change is separately observed, and its desirability is also directly dependent on the cultural significance.

Here too, the discourse is rooted in the national scale. Because it seems that in the Australian context the national scale has hierarchy over that of local, it partially forces this model of heritage management on the local scale too. There is clearly also an interplay between the social and cultural scale of indigenous peoples, and that of heritage experts, which acts with somewhat hierarchical relations. It is no coincidence that these scales appear together with the geographical scales, as those match the domains of influence that these particular scales possess; local is often less powerful than national. The management of heritage intersects with the discourse of control. The way these two discourses are presented in the Charter and its supporting texts, show how the power is truly divided.

“4.1 *Conservation* should make use of all the knowledge, skills and disciplines which can contribute to the study and care of the *place*.” (The Burra Charter 2013, 3, emphasis original.)

Some allowance can be seen in 4.1 which states that “conservation should make use of all the skills, knowledge and disciplines” which can be of use in the management of the place. Now, the nominalized form of “conservation” does not indicate who does the conserving, making it not so much a permission for others than experts to participate, but rather that this knowledge, regardless of its origin should be, if it is deemed useful, be used. This further masks the involvement of the heritage practitioners while also normalizing the process, giving conservation an agency of its own, making it an inevitable aspect of the heritage practice advocated by the Charter. It does not indicate how utilizing the skills takes place, but at least it recognizes that the knowledge possessed by experts may not be sufficient. It therefore leaves a possibility for other than AHD laden conservation methods to gain some traction, even if the Charter’s definition of conservation itself adheres to a single set of rules, which however are adaptable. This leaves space for the possibility of adopting different management models for different places, but due to the emphasis on expert-lead approaches, whoever determines best practices will likely be found in this category as well.

“Article 30. Direction, supervision and implementation Competent direction and supervision should be maintained at all stages, and any changes should be implemented by people with appropriate knowledge and skills.” (The Burra Charter 2013, 9.)

This is supported by article 30, which elaborates the importance of maintaining “competent direction and supervision” and that any changes should be made by “people with appropriate knowledge and skills.” Direction and supervision indicate that someone is placed above other people in terms of power, in this case, to supervise any actions taken with the site. Appropriate knowledge may refer to the heritage practitioners, because they are the ones who possess the suitable skills for managing heritage according to the Burra Charter. Just as well they may refer to the people who are experts in matters of their own heritage, such as indigenous peoples. Similarly, it is difficult to deduce exactly what is meant by “competent”. Does it refer to competency in terms of expertise in the general sense or competency when it comes to a particular type of heritage? Due to the general attitude that the Charter expresses, it is likely that it is meant to denote heritage practitioners working in the field, but due to the vagueness of the article, anything is technically possible.

“The assessment and management of Indigenous heritage places may require the practitioner to adopt modified methodologies, placing greater emphasis on some aspects than others.” (The Burra Charter Practice Note 2013, 1.)

“With respect to places of cultural significance, Indigenous perceptions of what constitutes an appropriate level of physical intervention, or appropriate forms of physical maintenance, may differ from those of heritage practitioners. Indigenous cultures may be more accepting of change, including physical deterioration, at a place of cultural significance. The appropriate response will require balancing the conservation requirements and ongoing cultural traditions, and should be approached on a case by case basis. ... Conservation of significant places provides an opportunity for these traditional skills to be revived, augmented where appropriate by modern techniques.” (The Burra Charter Practice Note 2013, 6.)

To some extent, the special approach required by some indigenous peoples is taken into account, mostly visible in the Practice Note, since the Burra Charter itself mostly only refers to indigenous peoples in passing. It is recognized that the normal western heritage practices may clash with the management ideas indigenous peoples may have, but it still does not allow indigenous peoples to deal with the management of heritage on their own, without expert intervention. The Practice Note does shift its discourse somewhat from that present in the Burra Charter, being more accommodating of alternative management models and regarding them as a potential addition. An alternative approach of indigenous origin is acknowledged but not considered absolutely necessary, though the text also does not outright deny indigenous participation in the management of heritage. There does seem to be some value disparity between the expert models and traditional models, as

the Practice Note appears as a cautionary tale of what may happen rather than advocating the positive sides of the indigenous models. Rather than considering traditional skills central to the management of the place, they are viewed as something dependable on the place, where conservation of the place by unnamed parties may be beneficial for the practice of those skills.

“4.2 Traditional techniques and materials are preferred for the *conservation* of significant *fabric*. In some circumstances modern techniques and materials which offer substantial conservation benefits may be appropriate.” (The Burra Charter 2013, 4, emphasis original.)

“4.1 *Conservation* should make use of all the knowledge, skills and disciplines which can contribute to the study and care of the *place*.” (The Burra Charter 2013, 3, emphasis original.)

As the earlier examples show, the Burra Charter’s management system clearly focuses on models that are in use with other heritage as well, although modified approaches are allowed in terms of indigenous peoples’ heritage. Traditional conservation or management techniques are not acknowledged in the Practice Note but they do get a mention in the actual Burra Charter. It only refers to the techniques in conjunction with conservation, as the management aspect seems to be automatically attributed to the heritage sector. Although traditional techniques and materials are seemingly “preferred”, they are not exclusively recommended as sometimes modern techniques are considered better for conservation. This in fact makes more conserving methods the preferred option and shows that conservation according to the AHD model is an essential aspect of the Charter. This can rather easily lead to the heritage practitioners ignoring the wishes and practices of the indigenous peoples if those are seen to be detrimental to the overall conservation of the site.

“Indigenous Cultural heritage is a fundamental and inseparable part of the cultural heritage of all Australians.” (Australia ICOMOS Statement 2001.)

This kind of appropriation of heritage is also visible in the way the Statement speaks about Australian indigenous heritage, and their desire to more strongly connect it to the wider Australian heritage. While this is not necessarily an attempt to take over indigenous heritage, it can be seen as such by indigenous Australians who have already had to learn to share their heritage on even a global scale. There also exists the danger that accommodating indigenous heritage to a more general group can lead to the specific values of this heritage to being ignored or forgotten.

The Australia ICOMOS texts do well to show the contested nature of the scalar relations among different scales of heritage. It not only appears as spatially interconnected areas of influence which places the global backed regional scale against that of the very local and community but also in terms of socially contested relations among indigenous peoples and other Australians, and the institutional against traditional. All of these conceptualize in the interactions between indigenous Australians and



heritage experts. The position of indigenous peoples in Australia is far from equal, and while they have slowly gained and assumed more power also in terms of their heritage, it is still not often in their control but instead managed by laws and organizations not dictated by them.

The management discourse does not always include traditional knowledge, but in the indigenous heritage context it is one of its core elements. They could technically be viewed as two different discourses, but due to the way the traditional knowledge appears within the context of management in the analyzed texts, it combines the discourses into one and informs the way the management discourse is built here. There exists disparity in the discourse. On one hand, the role of traditional knowledge in the management of indigenous sacred heritage is considered a benefit, even going as far as presenting holistic management models involving these traditional techniques in a positive light. This is especially true in the IUCN Guidelines, which seem to advocate more community based approaches and emphasize the importance of traditional indigenous methods, attempting to raise them alongside scientific ones. On the other hand, the official heritage sector prefers expert involvement and considers scientific techniques a necessity for the best protection. This stand is especially visible in the Australia ICOMOS texts, which definitely favor expert management over traditional models. Unlike the IUCN Guidelines, these texts also equate the concept of protection with that of conservation and attach them as the core aspect of the discourse of management. The discourse is then malleable, with both newer and older ideas present.

#### **4.7 Value of Sacred and the Layers of Meanings**

The sites considered worth protecting are not valued by their custodians solely for their tangible dimension nor, in the case of SNS, solely for their sacred nature. These sites possess layers of meanings, some tangible some intangible, all of which should be acknowledged when discussing their protection. These values can be divided into spiritual, cultural and socio-economical, as per the model introduced by Verschuuren et al.<sup>199</sup> This multidimensionality has almost always been present on the local scale, but on the higher scales, the separation of values can be largely attributed to the western model of thinking. The most important example would be the World Heritage Convention and its original split of heritage into cultural and natural. It is also visible in the idea that religious appears as a separate category from the rest of life, and sacred of everyday. Some of the values give the sites meaning in the more official sense, making them worth protecting, and some may be completely overlooked. How visible are these old ideas in the heritage documents, or do they appear at all? Focusing directly on the sacred, one can also ask: is all sacred valued the same? The way

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<sup>199</sup> Verschuuren, Wild, McNeely and Oviedo 2010, 7–8.

sacred is spoken about and the context it appears in can be used to get a preliminary notion of whether indigenous and non-indigenous appear in the text under the same premises or not.

“Sacred natural sites are not exclusively valued for their “intangible” services. They are often sources of water – for example, mountain catchments and holy wells, rivers and lakes – and they can also provide medicines, food, ritual paraphernalia and other resources.... The recognition that nature might provide health and well-being has only recently been considered as part of ecosystem valuation.” (IUCN 2008, 31.)

“The IUCN definition (both existing and revised versions) explicitly recognises that in addition to biodiversity and nature, cultural resources and cultural values are worthy of protection.” (IUCN 2008, 14.)

Since the Guidelines exist specifically for the benefit of *sacred* natural sites, it is no wonder that it makes several references to the spiritual and cultural qualities of the sites, emphasizing their position alongside the natural qualities. The way the Guidelines approach this topic is somewhat novel, as recognized within the text itself as well. IUCN then appears as a sort of pioneer, although the idea of multiple potential values present in heritage has gained some traction within the heritage sector prior to this too. The importance of understanding the co-existence of multiple values in a place is emphasized and given special attention within the text.

“Guideline 1.2 Ecosystem services and human well-being: Recognise that sacred natural sites have great significance for the spiritual well-being of many people and that cultural and spiritual inspiration are part of the ecosystem services that nature provides.” (IUCN 2008, 21.)

“Guideline 1.5 Holistic models: Recognise that sacred natural sites integrate social, cultural, environmental and economic values into holistic management models that are part of the tangible and intangible heritage of humankind.” (IUCN 2008, 22.)

“Guideline 1.1 Natural and cultural values: Recognise that sacred natural sites are of vital importance to the safeguarding of natural and cultural values for current and future generations.” (IUCN 2008, 21.)

“Guideline 4.7 Cultural renewal: Recognise the role of sacred natural sites in maintaining and revitalizing the tangible and intangible heritage of local cultures, their diverse cultural expressions and the environmental ethics of indigenous, local and mainstream spiritual traditions.” (IUCN 2008, 24.)

For the Guidelines specifically, the concept of sacred appears as something that does not only exist as a singular significance, but also something that can be seen as an important aspect of protecting biodiversity. This is not necessarily due to the concept itself, but due to its effects. Sites considered sacred have been quite exclusively protected and cared for by their custodians, leading to them often having higher biodiversity than the areas surrounding them, even having within their areas species that have disappeared elsewhere. These sites are then exclusive because they are considered sacred, which has led to certain types of behavioral patterns which in turn have aided the environmental benefits. This appears to be a valid reason for why the custodian involvement and work is essential,

which unfortunately is something that official policies do not always recognize or accept. The simple fact is that depending on the tradition or community, the sites may indeed possess varied values, which is not in any way problematic. The issues begin when certain values are emphasized over others, both in the management system and the general heritage discussion.

An interesting aspect of the value discourse here is that it seems to be linked to the notion of universal heritage, which is an idea that does not surface elsewhere within the Guidelines. Although the conservation of the sites has been presented as beneficial overall, not just with regards to indigenous peoples, explicit mentions of “heritage of human kind” or the ideas concerning the intergenerational equity are scarce. This somewhat changes the impression that the Guidelines create, as it technically equates value of heritage with its global ownership and in doing so reduce the symbolic control that indigenous peoples may possess over their sites. It reverts back to the traditional scalar hierarchies where global scale may appropriate local expressions of heritage without the input of the local scales. It does at least give local meanings a chance to be recognized.

Throughout the Guidelines, IUCN underlines their position that for all SNS, there exist multiple values and multiple reasons for protecting it. This could be perceived as a way to make officially protecting something easier, since the multiple values can be used to more easily argue why something is worth protecting. Not only that but in many national policies, SNS are not recognized as such and therefore not treated accordingly, leading to the trampling on indigenous rights when it comes to the access and management of their sites. Therefore raising sacred to an equal status with more tangible or scientific values also serves to more easily argue its importance. Whether this argument is meant to denote sacred sites as something more than just sacred or to buttress its significance in more understandable terms, the approach has positive implications for the overall protection of the site. The position appears as something that IUCN wants to spread among the documents target audience, as visible in the calls for recognition of these values and their interconnectedness. This is also seen in the calls for “holistic management models”, which is strongly present in the management discourse, where management is seen to be most beneficial when integrating models incorporating both traditional and scientific methods.

“Sacred natural sites related to indigenous and local communities are, in general, more vulnerable and more threatened than sacred natural sites associated with mainstream faiths.” (IUCN 2008, 3.)

“The fact that these communities often do not mark their sacred areas with shrines, temples or other outward symbols means that in some situations government and scientific agencies find it difficult to understand and even accept the role that indigenous and local communities have played in conserving biodiversity and other values.” (IUCN 2008, 32.)

“Understand the belief systems or faiths involved, recognising the legitimacy of other world views. If the PA managers are not familiar with the belief system or faith related to the site, efforts should be made to understand it and acknowledge its legitimacy. Seek, subject to prior consent, to understand the traditional knowledge of the custodians and the environmental ethics represented by the SNS.” (IUCN 2008, 27.)

“Protected area staff should receive adequate training and must be expected to respect faiths other than their own.” (IUCN 2008, 68.)

Since the Guidelines are written in such a way that they may be applicable to many types of situations where the custodians are not necessarily indigenous, it is difficult to find any particular discourse referencing specifically indigenous over other types of custodians. All are referred to collectively as custodians. In some parts of the text specifications are however made concerning other faith groups, showing that the Guidelines are mainly focused on indigenous sites despite their encompassing language. In terms of sacred, the Guidelines recognize that not all sacred is the same. Different faiths and belief systems may require different kinds of approaches. Despite this, no positive or negative value is placed on different beliefs. Therefore various types of sacred are not valued differently from each other or considered to be hierarchically different.

When it comes to protection, the text might somewhat favor the indigenous sites over others because they are considered to be “more vulnerable and more threatened” than their mainstream faith counterparts. This is partially due to the precarious position that many indigenous peoples around the world are in when it comes to their lands. This may warrant greater emphasis on protection of indigenous sites. Another reason is that indigenous sacred sites may not be recognized as having importance to anyone, or as having active protection provided by indigenous communities because they often do not mark their sites with any physical structures. Therefore, the indigenous sacred may be considered by these parties to be of lesser significance because it does not match their perception of how it should be manifested. If the role of indigenous peoples in the protection of these sites is not acknowledged it can easily fade out the existence of indigenous sacred, leading to situations where the site is approached only as a natural site, perhaps even leading to restricted access for the best protection. This in turn breaks the fundamental rights of indigenous peoples.

When discussing the aspects of sacred, the Guidelines seem to purposefully avoid value-laden judgments. It does seem, that based on the way other values are brought into the forefront together with biodiversity, sacred alone may not be considered enough reason to protect something, since in many parts the text emphasizes multiple values. Of course, considering that for indigenous peoples the places contain more than just a sacred value, this approach, while somewhat diminishing the meaning of sacred in comparison to other values, may be more in line with indigenous thoughts.

“‘Place’ includes locations that embody spiritual value (such as Dreaming places, sacred landscapes, and stone arrangements), social and historical value (such as massacre sites), as well as scientific value (such as archaeological sites). In fact, one place may be all of these things or may embody all of these values at the same time.” (The Burra Charter Practice Note 2013, 2.)

“1.2 Places may have a range of values for different individuals or groups.” (Burra Charter 2013, 2.)

“Place has a broad scope and includes natural and cultural features.” (The Burra Charter 2013, 2.)

*“Heritage practitioners must not inappropriately privilege tangible places and objects over the intangible aspects of heritage. Guidance: When preparing an assessment of cultural significance, always be aware that a place may provide the tangible locus for aspects of intangible heritage including traditional stories, medicine, cuisine, songs, dances, and ceremonies. The associated intangible heritage may be dependent upon the very existence and form of the place. The intangible heritage may also form a key part of the significance of the place, and vice versa.”* (The Burra Charter 2013, 4, emphasis original.)

The Burra Charter sees that the significance of the place consists of both its physical aspects as well as the values given to it and its use. Therefore it too brings forth the idea that a place may possess several intertwining values, whether they are intangible or tangible. These values are elaborated as aesthetic, historic, scientific, social, and spiritual, and all are seen as equally viable for contributing to the significance. It is the first time the Burra Charter completely separates itself from the old model set by the AHD, as it does not value tangible and Western values over others. Instead, it repeats the ideas presented in the Québec Declaration, much like the Guidelines. According to it acknowledging the context of the place, with all the intangible and tangible values attached, is important for the overall conservation and should be taken into account in the management.<sup>200</sup>

“Indigenous heritage values can change over time, like the heritage values of all communities. Places of significance to Indigenous people, and the reasons for their cultural significance, may change as Indigenous traditions adapt and evolve, and as Indigenous people are able to reconnect to places that have been denied to them in the past. ... Assessments of cultural significance should be sensitive to such changes, and this may require revision of assessments of significance.” (The Burra Charter Practice Note 2013, 4.)

Interestingly, unlike the fixed, negative attitude towards change of the Burra Charter, the Practice Note accepts and supports the notion that in the case of indigenous heritage, significance may change, and change is not necessarily a negative thing. Since the Charter bases its conservation policies to the significance of the place, the multifaceted value may be a key to a more inclusive approach in terms of conservation, which also acknowledges the ideas of indigenous peoples. The way the values of heritage are understood affect the conservation directly, because management is planned based on the values that are linked to the heritage in question. Therefore it also directly

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<sup>200</sup> Québec Declaration on Preservation of the Spirit of Place, 2008.

intersects and affects the power relations and the discourse of control that is always present in the varying scales of heritage. The entity, who has assumed the power to control heritage management, may not be the same who dictates which values are present in a given space, object or practice. Often these decisions take place on the higher scale, and the official sector may have different ideas on the value than the communities who interact with the heritage in question. This is why it is important to acknowledge that the values of heritage are not straightforward, and should be approached without evaluation, as all of the analyzed texts have done.

“Article 13. Co-existence of cultural values should always be recognised, respected and encouraged. This is especially important in cases where they conflict. For some places, conflicting cultural values may affect policy development and management decisions.” (The Burra Charter 2013, 5.)

“The *Burra Charter* definition of cultural significance encompasses all forms of spirituality, regardless of the culture from which it emanates. Similarly, aesthetic value is not limited to a ‘western’ perception of aesthetics. Although the Burra Charter also recognises that places may be of cultural significance for their historic and scientific values, it does not preference these, or any other kind of value. Indigenous cultural heritage can include any place with significant Indigenous connections and history. ... One place may embody both Indigenous and non-Indigenous values, and all aspects of a place’s cultural significance must be considered as part of the assessment.” (The Burra Charter Practice Note 2013, 2, emphasis original.)

“5.1 *Conservation of a place* should identify and take into consideration all aspects of cultural and natural significance without unwarranted emphasis on any one value at the expense of others.” (The Burra Charter 2013, 4, emphasis original.)

The Burra Charter seems to take a strict approach to valuing all heritage equally, often stressing that no value of a heritage place should be higher than another, and that multiple values can co-exist simultaneously. This applies to both heritage of spiritual kind as well as indigenous heritage in general when comparing it to non-indigenous heritage. It emphasizes that no matter the type of heritage, whether it is religious by nature or not, whether it is indigenous or not, the value it holds is equal, even in the cases where there may be several values which conflict with each other. It does not preference one over the other, but it also does not mean that the approach to heritage from a management point of view is identical in each situation.

The Burra Charter is not solely focused on the heritage with sacred connotations but it takes them into account in its texts and spirituality is one of the core values a site may possess. Seeing as it is directly stated that the Charter takes into account all types of spirituality, regardless of their origin culture, it appears to aim towards an equality of values even in the subsection of the sacred. Because any type of spirituality is accounted for in the cultural significance, it can be deducted that it also makes no difference between indigenous and non-indigenous sacred. In the case of indigenous this

can be considered a positive thing. At best it leads to approaches which value indigenous heritage as high as other types of heritage, respecting its special features and accommodating them in the processes. It provides an alternative approach to the ones preferred by AHD, which the Charter has often turned towards, by allowing indigenous values, and with it, multiplicity of values to exist simultaneously. This serves to dissolve some of the dissonance evident between the indigenous and non-indigenous scales in Australia, by incorporating the indigenous notions of value in the heritage sector controlled by heritage experts. This also creates a possibility of more indigenous ideas related to heritage management to make their way into the wider heritage policies of Australia ICOMOS, further reducing the presence of AHD in the Australian heritage sector.

The core element of value discourse seems to be that it is essentially unified. While multiple values can and do exist, within the discourse present in the texts they are all connected and equal. Incidentally, this also follows the common indigenous idea of the interconnectedness of everything. It assumes a more holistic approach to heritage. The discourse contributes to others presented in this thesis, specifically the management one, and illustrates the way power is divided in the sector. Both sets of primary sources approach the topic with the same assumption that multiple values can co-exist. This applies to the value of sacred as well, which in all of the texts is valued equal to other values and to other types of sacred. The Guidelines text does state that acknowledging sacred values is beneficial for the protection of SNS, but that sacred alone may not be enough which would in fact make it somewhat weaker than other values. Yet, when appearing in conjunction with other values, it is considered equal. The Burra Charter texts do not seem to carry this implication, but on the other hand the value of sacred does not appear on its own at all. It does suggest that no value is fixed, meaning that values of a certain place may fade or even completely disappear over time.

## 5 Conclusions

Heritage comes in many shapes and sizes, of which sacred heritage is one of the largest categories. It is considered to possess special attributes, a notion which also applies to indigenous heritage. The two are often interlinked, and the issues related to indigenous heritage and its position in the wider heritage field most visibly contextualizes in the discussions concerning the protection of sacred natural sites and indigenous rights. This thesis set out to examine how the texts located on higher hierarchical scales of heritage practice speak about heritage, especially the kind with indigenous or sacred connotations. Whether they sufficiently acknowledge the special qualities this heritage may possess as well as how this affects the power structures between indigenous peoples and the heritage sector. This was achieved through the following questions:

1. What do the heritage documents say about the current power relations, visible and underlying, present in the heritage sector concerning the sacred heritage of indigenous peoples?
2. How do these documents accommodate the needs and rights of indigenous peoples with regards to their sacred heritage?

All of the relevant discourses visible within the texts are tightly intertwined, often appearing in conjunction, whether in support or direct contradiction of one another. All of them are closely entangled with the notions of power and dominance, as they either contribute to the existing power structures or serve to undermine and reconstruct them. The discourse of control refers to the control that indigenous peoples can possess concerning the decision-making, management and – to some extent – ownership over their heritage, but as it is described in the texts this control is not absolute. The discourse of participation refers to the less autonomous but more practical involvement of indigenous peoples in the assessment or management of their heritage, which also assumes the engagement of other stakeholders. The control over knowledge discourse is concerned with the control that indigenous peoples should be allowed to have over the traditional knowledge and otherwise sensitive information regarding their sacred heritage. This is basically the single discourse that attributes all power to the indigenous peoples. Sensitivity discourse consists of the respect and culturally appropriate interactions required by the SNS and its custodians, and the requirement to keep certain information hidden from either heritage practitioners and managers or the wider public.

The discourse on access and use presents the traditional access and use of a site by indigenous peoples through its benefits for the management and meaning of the site and sensitivity concerns. The management discourse describes the differing views on management that indigenous peoples and heritage practitioners can possess, especially concerning the involvement of traditional



knowledge and methods in the practice of management. The value discourse considers all values and all sacred equal and unified, modifying the older Western discourse of values which considered them to be separate. Accordingly, sacred alone does not possess special qualities but is comparable to other values, which somewhat conflicts with the sensitivity discourse. The discourse of control seems to be the one all other discourses lean on, as it is the most pivotal to the actualization of indigenous rights with regards to their heritage.

The discourses identified within the analyzed texts directly relate to an issue concerning indigenous rights. The special features of the indigenous sacred heritage are acknowledged, but not always in a way which respects the rights and self-determination of indigenous peoples. As can be seen, most of the time the discourses, as they appear in the texts, do not acknowledge these topics to be issues at all, which is especially evident in the Australia ICOMOS texts, where the rights context is overlooked. The IUCN Guidelines regularly make references to the UNDRIP and the legal rights of indigenous peoples, but also admits that the actualization of these rights cannot always be ensured. Overall, these documents do not really accommodate the rights of indigenous peoples. As the discourses state, the indigenous peoples are not in complete charge over their own heritage matters, they cannot always participate in the decision-making, they lack control when it comes to their sites, which also limits the access and use of these sites. The indigenous values are recognized and respected, but not in the actual actions described within the texts, largely due to the effect of the national sector.

The higher hierarchical scales of heritage, especially the national scale, do possess more power than indigenous peoples do with regards to indigenous peoples' sacred heritage. In fact, heritage practitioners are presented as hierarchically higher than the custodians of the sites. While indigenous peoples may be able to voice their concerns, the decisions are ultimately undertaken by someone else. On the surface, the thought of more equal power relations is entertained and even advocated. Deeper probing of the text and its linguistic structures show that the national heritage sector, as well as the heritage practitioners and site managers are in fact the ones with most influence. The heritage practitioners may even be the ones with most authority, because they both inform and carry out the direction provided by the national sector.

This is highlighted especially in the discourses concerning control, participation and access and use. While particularly within the IUCN Guidelines the indigenous peoples are attributed power, as is evident through the text's reliance on the concept of FPIC, the national sector seems to be able to limit these discourses in any way it wants. Not only that, but the site managers are given ultimate power, because they act as a middleman between the indigenous peoples and the other

stakeholders. Therefore any action, whether related to the decision-making or to more hands-on approaches, or even the right to access the site, is mediated by the site managers. The Australia ICOMOS texts are worse in this regard, because the discourses of control and participation are almost invisible, and only appear under very specific terms, most of which are somehow related to the Charter's idea of significance of the heritage in question. Same goes for the access and use, which is clearly elaborated, but again dependent on the role it may have in buttressing the existing values related to the heritage place. Not only that but the Burra Charter especially advocates the western models of heritage practice where communities related to the heritage are only given minimal role. The power is then possessed by the heritage practitioners.

There are discourses where the evident power structure is overturned or at least approached with a more equal stance. The discourse on control over knowledge seems to delegate more power to indigenous peoples, especially in the case of IUCN Guidelines where no onus is put on indigenous peoples to reveal any information regarding their site they are not comfortable with. Although the Australia ICOMOS texts do seem to want to present sharing of information as a goal, the indigenous peoples' right to control their knowledge is accepted. Within the sensitivity and value discourses, the power is mostly regarded equal. Sensitivity is considered as something that should be automatic when interacting with indigenous heritage, although the Guidelines realize that this cannot always be ensured.

All values present in a place, regardless of their nature, are considered equal and therefore require approaches where all of them are accommodated. This still somewhat allocates more power to the heritage sector, because the presence of the Western scientific values and methods is demanded, even if alongside the indigenous ones. Management is contested in that all the texts do allow, and to some extent even recommend, the inclusion of indigenous peoples and their techniques in the management of their heritage. The Burra Charter texts subject this participation under the guidance provided by heritage practitioners, whereas the IUCN Guidelines consider an equally encompassing approach more suitable. This is an approach where scientific and traditional methods are used, but with the involvement of indigenous peoples.

This means that even in the case of clearly labeled heritage, which has been acknowledged to be best cared for by their respective indigenous custodians, these custodians have very little authority in the matter, which is also a clear breach of indigenous rights. Despite the restructuring of scales and the ever growing influence of the local scale, which is acknowledged, the current power relations benefitting the national scale are deep-rooted in the sector. Not allowing indigenous peoples to have absolute power over their sacred heritage and all its aspects is against their basic rights, can

disempower them in other instances and may also be detrimental to the well-being of the sites and further diminish the benefits they possess, such as high instances of biodiversity.

It can be argued that the heritage documents play a part in reproducing the power hierarchies between indigenous and non-indigenous ideas and practices in the heritage field. This is particularly true for the documents operating on higher hierarchical scales, which the globally and nationally influential documents analyzed in this thesis can be seen to represent. The disparity is more accentuated when considering the traditionally weak status that indigenous peoples have overall, and with regards to their heritage, as this can determine whether indigenous peoples are afforded the opportunity to care for their heritage. The contesting scales of indigenous and non-indigenous heritage practice also materialize on different spatial scales, and to some extent can be seen to influence the practices. While all of the text could be applied to indigenous heritage, the Authorized Heritage Discourse still haunts the basic notions of heritage practices visible in the texts, leaving alternatives that include indigenous input on the backburner, save for a few exceptions. Overall, the Guidelines seem to be the more willing to implement the indigenous point of view, but even the texts of ICOMOS Australia acknowledge some of the newer ideas in the heritage field.

The IUCN Guidelines are, as the title states, merely guidelines. Without legal power behind them they can only be viewed as recommendations. However, the manner in which the text refers to the indigenous peoples paints them, for the most part, as a varied group of communities who have both the means and capabilities of caring for their land and heritage given certain legal allowances are in place. While the Guidelines attempt to suggest alternative management options and processes involving custodians, processes which deviate from the classic Western models, both the limitations of the field as well as the impact of the old models can still be seen in the Guidelines, appearing occasionally to show that there is still work to be done.

The Burra Charter, its Practice Note on indigenous cultural management, and the ICOMOS Australia statement on Indigenous Cultural Heritage all act within a different framework and therefore have a slightly different focus than in the Guidelines. These texts, specifically the Burra Charter, are considered the national standard of Australian heritage management, although there is no legal obligation to adopt it in local management. The level of attention for indigenous peoples varies from text to text. The focus is clearly on the place rather than its custodians, but the overall consensus seems to be that indigenous peoples should be involved but not given control. Many of the processes suggested in the Charter favor the expertise of heritage practitioners over that of indigenous peoples, more often than not referring to the qualities of AHD. The Practice Note and the Statement

emphasize the special nature of indigenous heritage, but ultimately approach it as any other heritage.

This thesis offered an insight into the way indigenous peoples and their sacred heritage are approached in the guidelines and charters of the sample organizations, offering an example of how power is used within the wider heritage sector. It allowed a closer inspection of how power is truly divided in the heritage sector, revealing the potential problems this may cause. It serves to shed light on issues that the analyzed documents possess. However, it should in no way be considered a comprehensive overview, especially considering the limited number of documents that were analyzed. Potential future research could be attempted through widening the data corpus to include more types of heritage documents, perhaps approaching the topic from a different scale, or comparing the varying scales where heritage practice and decision-making take place. Another potential way of continuing this research would be to transition from a theoretical to a practical level and approach the topic from the indigenous side: how are these charters and guidelines, or others of their kind, working in practice? Looking at the level of text can only tell about attitudes, not so much about the reality of the situation.

Using the politics of scale as my theoretical framework was beneficial as it allowed me to examine the interaction of different modes of heritage and its practice in multiple domains of influence. Rather than focusing on a single aspect, it made it possible to consider both indigenous and heritage practitioner viewpoints. The framework enabled an approach where the existing structures of power and authority present in the heritage field could be observed in more detail. The choice of CDA as a methodological approach aided in this, as it also allowed me to pick apart the more implicit power structures that appear on the level of text and language.

The global heritage field is at a turning point, with more and more resources being allocated to researching and adopting heritage practices that adequately acknowledge the varying features the world's heritage is finally understood to possess. Indigenous peoples are among the most vocal of groups, which for its part has managed to ensure that indigenous heritage and its practices are being brought onto the forefront, slowly chipping away at the hold AHD still possesses over the heritage field. The examples presented in this thesis show that the direction is positive and indigenous perspective is already given more space alongside current visions. For now, however, the power is still in the hands of the heritage practitioners.

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